

## **EXHIBIT 1**

ORIGINAL

1 MARK R. MCDONALD (CA SBN 137001)  
mmcdonald@mofo.com  
2 MATTHEW J. CAVE (CA SBN 280704)  
mcave@mofo.com  
3 AMY LAWRENCE (CA SBN 311154)  
amylawrence@mofo.com  
4 MORRISON & FOERSTER LLP  
707 Wilshire Boulevard, Suite 6000  
5 Los Angeles, California 90017-3543  
Telephone: 213.892.5200  
6 Facsimile: 213.892.5454  
7 Attorneys for Defendants  
BANC OF CALIFORNIA, INC.,  
8 BANC OF CALIFORNIA, N.A.

**FILED**  
Superior Court of California  
County of Los Angeles

JAN 11 2018

Sherri R. Carter, Executive Officer/Clerk  
By Nancy Alvarez Deputy

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF LOS ANGELES

12 JEFFREY T. SEABOLD,

Case No. BC674694

13 Plaintiff,

14 v.

15 BANC OF CALIFORNIA, INC.; BANC OF  
16 CALIFORNIA, N.A.; and DOES 1-10,

17 Defendants.

**DECLARATION OF MARK R.  
MCDONALD IN SUPPORT OF  
DEFENDANTS BANC OF  
CALIFORNIA, INC. AND BANC OF  
CALIFORNIA, N.A.'S MOTION  
FOR LEAVE TO FILE FIRST  
AMENDED ANSWER TO  
PLAINTIFF JEFFREY SEABOLD'S  
UNVERIFIED COMPLAINT FOR  
DAMAGES**

Hearing Date: March 29, 2018  
Time: 8:30 a.m.

Complaint Filed: September 5, 2017  
Trial Date: None

Res ID # 180110280445  
0.30

01/16/2018

la-1370138

1

DECLARATION OF MARK R. MCDONALD

Exhibit S - Page 301

1 I, Mark R. McDonald, declare:

2 1. I am an attorney duly admitted to practice before all of the courts of the State of  
3 California. I am a partner with Morrison & Foerster LLP, counsel of record for Defendants Banc  
4 of California, Inc. and Banc of California, N.A. in the above-captioned action. I have personal  
5 knowledge of each of the matters set forth below, and, if called as a witness, I could and would  
6 testify to each of them under oath.

7 2. Attached hereto as Exhibit A is Defendants' proposed First Amended Answer to  
8 Plaintiff Jeffrey Seabold's Unverified Complaint for Damages.

9 3. Attached hereto as Exhibit B is Defendants' Answer to Plaintiff Jeffrey Seabold's  
10 Unverified Complaint for Damages, as filed on November 27, 2017.

11 4. As set forth in detail in Defendants' Motion for Leave to File First Amended  
12 Answer to Plaintiff Jeffrey Seabold's Unverified Complaint for Damages, the effect of the  
13 amendments proposed in the First Amended Answer are to ensure that the Court and the trier of  
14 fact have a complete understanding of the facts underlying Plaintiffs' claims and Defendants'  
15 affirmative defenses, and to ensure that discovery regarding the claims and defenses are properly  
16 framed by the pleadings.

17 5. Defendants' proposed First Amended Answer is necessary and proper. The  
18 amendments will provide the Court and the trier of fact with a fuller picture of the facts and  
19 sharpen the issues in this case, thereby making the tasks of the Court and the trier of fact simpler.  
20 The amendments will also ensure that discovery regarding the claims and defenses are properly  
21 framed by the pleadings.

22 6. After filing the Answer on November 27, 2017, about a month and a half ago,  
23 Defendants decided (for the reasons stated above and in Defendants' motion) to file an amended  
24 answer responding specifically to each of Plaintiff's allegations, as opposed to the general denial  
25 in Defendants' Answer. As soon as Defendants made this decision, they began to prepare their  
26 motion requesting leave to amend.

27 ///

28 ///

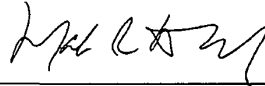
la-1370138

2

DECLARATION OF MARK R. MCDONALD

Exhibit S - Page 302

1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct. Executed on January 11, 2018, at Los Angeles, California.

3 

4 \_\_\_\_\_  
Mark R. McDonald

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
01/16/2018



01/16/2018

Exhibit S - Page 304

EXHIBIT A

EXHIBIT 1  
PAGE 10

1 MARK R. MCDONALD (CA SBN 137001)  
mmcdonald@mofo.com  
2 MATTHEW J. CAVE (CA SBN 280704)  
mcave@mofo.com  
3 AMY LAWRENCE (CA SBN 311154)  
amylawrence@mofo.com  
4 MORRISON & FOERSTER LLP  
707 Wilshire Boulevard, Suite 6000  
5 Los Angeles, California 90017-3543  
Telephone: 213.892.5200  
6 Facsimile: 213.892.5454

7 Attorneys for Defendants  
BANC OF CALIFORNIA, INC.,  
8 BANC OF CALIFORNIA, N.A.

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

12 JEFFREY T. SEABOLD,

13 Plaintiff,

14 v.

15 BANC OF CALIFORNIA, INC.; BANC OF  
16 CALIFORNIA, N.A.; and DOES 1-10,

17 Defendants.

Case No. BC674694

**DEFENDANTS BANC OF  
CALIFORNIA, INC. AND BANC OF  
CALIFORNIA, N.A.'S FIRST  
AMENDED ANSWER TO  
COMPLAINT**

18 Complaint Filed: September 5, 2017  
19

20  
21 Defendants Banc of California, Inc. and Banc of California, N.A. (the "Bank" and  
22 together with Banc of California, Inc. the "Company" or "Defendants") hereby file this First  
23 Amended Answer to the Complaint of Plaintiff Jeffrey T. Seabold ("Seabold" or Plaintiff). By  
24 responding to each paragraph of the Complaint, or to each allegation in each paragraph of the  
25 Complaint, Defendants do not thereby concede that each paragraph or each allegation is relevant  
26 to the causes of action alleged in the Complaint. To the contrary, Defendants allege that the  
27 Complaint includes numerous allegations that are not relevant to the causes of action alleged, and  
28 that numerous allegations are included for improper reasons and to harass Defendants.

la-1365021

1

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 305

EXHIBIT 1  
PAGE 11

1           1. Defendants contend that Seabold's Complaint is in furtherance of a strategy by  
2 Steven Sugarman, the Company's former CEO, to use Seabold and Sugarman's other proxies to  
3 assert baseless or meritless allegations against those members of the Company's boards of  
4 directors who Sugarman blames for demanding his resignation as CEO and a director of the  
5 Company, to promote an inaccurate description of the reasons Sugarman's resignation was  
6 demanded, to divert attention from Sugarman's and Seabold's own conduct, and to undermine the  
7 Company's reputation and business. Defendants deny the allegations in Paragraph 1, including  
8 but not limited to the allegations that the Company's independent directors engaged in  
9 "misconduct," had "conflicts of interest," sought to "solidify" their positions as directors, or  
10 schemed to eliminate all Company employees who could interfere with allegedly illicit plans.  
11 Defendants allege that Seabold refused to perform the job given to him by the acting CEO who  
12 replaced Sugarman and filed this action before being fired by the Company for cause.

13           2. Defendants deny the allegations in Paragraph 2, including but not limited to the  
14 allegation that any of the Company's directors had a plan to "scapegoat[] top Banc executives,  
15 including its founders, as well as vendors, consultants and attorneys."

16           3. Defendants deny the allegations in Paragraph 3, and note that nowhere in  
17 Seabold's Complaint does he identify any specific corporate opportunities that any director  
18 improperly "usurped," any contracts between any director and any individuals that presented any  
19 "conflict of interest," or any self-dealing transactions that any member of the board entered into.

20           4. Defendants deny the allegations in Paragraph 4 and allege that Seabold while an  
21 officer of the Company did not report any "violations of the Company's Corporate Governance  
22 Policies, Sarbanes Oxley ("SOX") controls, and financial disclosure requirements," which as an  
23 officer of the Company he had a duty to do had he in fact been aware of any such violations.  
24 Defendants further deny that they "ignored" any "whistleblowers" or "dismissed" any employee  
25 for reporting any violations of law or Company policy.

26           5. Defendants deny the allegations in Paragraph 5, in particular that Seabold is a  
27 "victim," and allege that at the time Seabold quit his job, the Company had notified Seabold that  
28 it had grounds to terminate Seabold for cause because, among other reasons, Seabold refused to

la-1365021

1 report to work and do the work he had been assigned.

2 6. Defendants allege that after they were presented with Seabold's demands to be  
3 bought out of his employment agreement at an outlandish amount, they concluded it would be in  
4 the Company's better interest for Seabold to continue as an employee. However, when it became  
5 clear that Seabold had no interest in performing work for the Company, the Company informed  
6 Seabold it would terminate him for cause if he did not cure his conduct and perform his job  
7 duties. In response, Seabold quit and filed suit. Defendants deny the remaining allegations in  
8 Paragraph 6.

9 7. Defendants deny the allegations in Paragraph 7.

10 8. Defendants admit that Seabold was Vice Chairman of the Company, but deny that  
11 Seabold "founded" the Company or that he was Executive Vice Chairman of the Company when  
12 he quit. Defendants lack sufficient information to admit the remaining allegations in Paragraph 8.

13 9. Defendants admit the allegations in Paragraph 9, except that the Company's  
14 headquarters is in Santa Ana, California rather than Irvine, California.

15 10. Paragraph 10 recites legal conclusions that require no response. The Company  
16 otherwise denies each and every allegation in Paragraph 10.

17 11. Paragraph 11 recites legal conclusions that require no response. The Company  
18 otherwise denies each and every allegation in Paragraph 11.

19 12. Paragraph 12 recites legal conclusions that require no response. The Company  
20 otherwise denies each and every allegation in Paragraph 12.

21 13. Defendants admit that venue is proper in Los Angeles County, but otherwise deny  
22 the allegations in Paragraph 13.

23 14. Defendants admit that in 2008 some businesses in the banking and mortgage  
24 lending industries were suffering and many were going out of business. Defendants lack  
25 information sufficient to enable them to admit or deny what Seabold "recognized," or whether he  
26 "shared his vision" with Sugarman, what Sugarman was "pursuing," or whether Sugarman  
27 "embraced" the idea of "joining forces" with Seabold, and on that basis deny those allegations.  
28 Defendants otherwise deny each and every allegation in Paragraph 14.

la-1365021

3

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 307

1           15. Defendants admit that First PacTrust Bancorp ("PacTrust") was the predecessor  
2 entity to Banc of California, Inc., that it faced challenges, and that its success was not guaranteed.  
3 Defendants lack information sufficient to enable them to admit or deny the remaining allegations  
4 in Paragraph 15, and on that basis deny those allegations.

5           16. Defendants admit that the Bank was recapitalized in or about November 2010 and  
6 that following that recapitalization, several new officers, including Greg Mitchell, and directors,  
7 including Sugarman, Chad Brownstein and Seabold, were appointed at about that time.  
8 Defendants lack information sufficient to enable them to admit or deny the remaining allegations  
9 in Paragraph 16, and on that basis deny those allegations.

10           17. Defendants admit that in 2012, the boards asked Sugarman and Robert Franko to  
11 become the Chief Executive Officers of PacTrust and the Bank, respectively; that at that time,  
12 Tim Chrisman was the Chairman of the boards of the Bank and the Company; and that in  
13 December 2012 the Bank entered into a consulting agreement with Seabold. Defendants deny  
14 that Chrisman, Schnel and Karish led any effort to offer Seabold a full time executive position.  
15 Defendants lack information sufficient to enable them to admit or deny the remaining allegations  
16 in Paragraph 17, and on that basis deny those allegations.

17           18. Defendants admit that Seabold and the Bank entered into an employment  
18 agreement on or around May 13, 2013, to which the Company refers for a complete statement of  
19 its contents, and the Company later that year that acquired CS Financial, Inc. ("CS Financial"), a  
20 residential mortgage and commercial real estate brokerage company based in Southern California  
21 founded by Seabold and, on information and belief, partially owned by members of Sugarman's  
22 family. Defendants lack information sufficient to enable them to admit or deny the remaining  
23 allegations in Paragraph 18, and on that basis deny those allegations.

24           19. Defendants admit that Sugarman, signing for the Bank, executed an employment  
25 agreement with Seabold on or around May 13, 2013, to which the Company refers for a complete  
26 statement of its contents. Defendants deny the remaining allegations of Paragraph 19.

27           20. Defendants admit that Sugarman, signing for the Bank, executed an Amended and  
28 Restated Employment Agreement, dated April 1, 2015, with Seabold, to which the Company

la-1365021

4

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 308

1 refers for a complete statement of its contents, and that the April 1, 2015 Amended Agreement  
2 was later amended by a First Amendment to Amended and Restated Employment Agreement  
3 dated as of January 1, 2016, to which the Company refers for a complete statement of its contents.  
4 Defendants deny the remaining allegations of Paragraph 20.

5 21. Defendants refer to the April 1, 2015 Amended and Restated Employment  
6 Agreement, as amended, for a complete statement of its contents. Defendants deny the remaining  
7 allegations of Paragraph 21.

8 22. Defendants admit that Seabold executed a "Consent to Material Changes in  
9 Position, Authority, Duties and Responsibilities" dated July 26, 2016, to which Defendants refer  
10 for a complete statement of its contents. Defendants deny that the July 26, 2016 Consent ("July  
11 26, 2016 Consent") reflects a "promotion" that Seabold received at that time. Defendants allege  
12 that at that time Seabold's position and duties were changed; specifically, Seabold's position was  
13 changed from Executive Vice President and Chief Banking Officer to Executive Vice President  
14 and Vice Chairman, and his duties and responsibilities would be what the Chief Executive Officer  
15 determined they would be. At that time, Sugarman also removed Seabold's operational  
16 responsibilities, and Seabold's primary responsibility became to act as an advisor to Sugarman.  
17 The Company sought and obtained Seabold's consent to those changes because those changes  
18 could readily be construed as a demotion from Seabold's previous position, authority, duties and  
19 responsibilities. Defendants deny the remaining allegations of Paragraph 22.

20 23. Defendants refer to the April 1, 2015 Amended and Restated Employment  
21 Agreement, as amended, for a complete statement of its contents. Defendants admit they did not  
22 give written notice to Seabold of an intent not to renew the April 1, 2015 Amended and Restated  
23 Employment Agreement, as amended. Defendants deny the remaining allegations of Paragraph  
24 23.

25 24. Defendants admit that in July 2013, PacTrust was renamed as Banc of California,  
26 N.A.; that the board of directors authorized new advertising; and that from time to time the  
27 Company has sponsorship, consulting and business relationships with various people and entities.  
28 Defendants further admit that the Company adopts a strategic plan each year that is approved by

la-1365021

1 the board of directors. Defendants lack sufficient information to admit who “endorses” the  
2 Company. Defendants deny the remaining allegations of Paragraph 24.

3 25. Defendants admit that the Company grew over time and that Forbes Magazine  
4 ranked the Company as one of “America’s Top Banks” in 2015 and 2016. Defendants deny that  
5 Sugarman and Seabold deserve the credit for the Company’s success during that time.  
6 Defendants deny the remaining allegations of Paragraph 25.

7 26. Defendants admit that the Company had pre-tax profit of over \$200 million in  
8 2016, and had more than \$11 billion in assets in 2016. Defendants deny that Sugarman and  
9 Seabold deserve the credit for the Company’s success during that time. Defendants deny the  
10 remaining allegations of Paragraph 26.

11 27. Defendants admit that the Company had and has high employee morale and a  
12 strong public perception in the community. Defendants contend that Sugarman and Seabold have  
13 tried to undermine the Company’s reputation within the Company and the community since they  
14 left the Company. Defendants believe that Sugarman and Seabold are motivated to undermine  
15 the Company’s reputation to rewrite the history of their own actions, and also to recruit the  
16 Bank’s customers and employees to a new financial services business founded by Sugarman and  
17 Seabold in 2017. Defendants lack information sufficient to enable them to admit or deny the  
18 remaining allegations in Paragraph 27, and on that basis deny those allegations.

19 28. Defendants admit that, on October 18, 2016, an anonymous blogger published an  
20 article under the pseudonym “Aurelius” making a number of false allegations about the Company  
21 on the website *Seeking Alpha* (the “Blog”), including the allegation that the Company was  
22 controlled by Jason Galanis, an individual who had been indicted on September 24, 2015 for  
23 securities fraud in connection with a scheme known as the Gerova Financial fraud, and who was  
24 indicted a second time for the Indian Tribal Bonds fraud in May 2016. Defendants further admit  
25 and allege that the allegation in the Blog that Galanis had gained control of the Company was  
26 false and that Galanis’ only relationship to the Company was that entities with which he was  
27 associated opened two deposit accounts with the Bank. Defendants lack information sufficient to  
28 enable them to admit or deny the remaining allegations in Paragraph 28, and on that basis deny

la-1365021

6

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 310



1 those allegations.

2 29. Defendants admit and allege that, following the publication of the Blog, Sugarman  
3 drafted a proposed press release, and that the final version of the press release that Sugarman  
4 drafted and authorized to be issued on October 18, 2016 stated:

5 Banc of California, Inc. (NYSE: BANC) today announced it is  
6 aware of allegations posted in a financial blog. The Company's  
7 Board of Directors has been aware of matters relating to Jason  
8 Galanis including certain claims he had made suggesting an  
9 affiliation with members of the Company, its Board, and/or its  
10 Executive team. The Board, acting through its Disinterested  
11 Directors, immediately initiated a thorough independent  
12 investigation led by Winston & Strawn, and has received regular  
13 reports including related to regulatory and governmental  
14 communications over the past year.

15 The complaint filed by the Department of Justice against Mr.  
16 Galanis and others dated May 9, 2016, which is found here, clearly  
17 states that Mr. Galanis' claims to be affiliated with COR Capital  
18 were fraudulent. See paragraphs 40 and 41 of the Sworn Statement  
19 of the Special Agent of the Federal Bureau of Investigation which  
20 states:

21 "40. Based on my conversation with a representative of COR  
22 Capital, I have learned that, contrary to the representations made in  
23 the June 3, 2014 email sent by JASON GALANIS, the defendant,  
24 to MICHELE MORTON, the defendant, (referenced in paragraph  
25 39c above), Burnham, CORFA and Wealth-Assurance AG were not  
26 affiliates of COR Capital.

27 41. Based on my review of documents, I have learned that on June  
28 3, 2014, JASON GALANIS, the defendant, sent an email to  
BEVAN COONEY, the defendant, which forwarded the email  
JASON GALANIS sent to MICHELLE MORTON, the defendant,  
earlier that same day, attaching the description of COR Capital  
which fraudulently asserted that certain entities were affiliates of  
COR Capital. In JASON GALANIS's email to COONEY, JASON  
GALANIS wrote 'whoring it out shamelessly[.] thank you [first  
name of COR Capital representative.]"

29 Banc of California and its Disinterested Directors will make further  
30 facts publicly available as appropriate.

31 Sugarman did not provide a draft of that press release to the boards of directors or all of their  
32 members before he ordered it issued. Although Sugarman shared a draft of the press release with  
33 the Company's General Counsel and Winston & Strawn, the law firm Sugarman referenced in the  
34 press release, both the General Counsel and Winston & Strawn advised Sugarman against the

35 la-1365021

7

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 311



1 issuance of the press release Sugarman had drafted. Despite their advice, Sugarman instructed  
2 that the press release be sent to the newswire for publication approximately 40 minute before a  
3 telephonic board meeting was scheduled to begin.

4 30. The Company denies that there was a meeting of the Executive Committee on  
5 October 18, 2016, or that the Executive Committee received a copy of the press release Sugarman  
6 drafted before he ordered it sent to the newswire, or that the Executive Committee approved of  
7 the press release before Sugarman ordered it issued. The Company further denies that Sugarman  
8 presented or read the press release during the October 18, 2016 telephonic board meeting that  
9 occurred shortly after he ordered the press release issued. The Company denies that the  
10 Company's General Counsel "reaffirmed" the October 18, 2016 press release during the earnings  
11 call that occurred on October 19, 2016. The General Counsel repeated during the earnings call  
12 information that Sugarman had told the General Counsel, including that (i) Sugarman had advised  
13 the boards of directors in 2015 about the circumstances associated with Jason Galanis' indictment  
14 on September 24, 2015, including certain claims attributed to Galanis that he was affiliated in  
15 some manner with the Company, or members of the Company's boards of directors, or  
16 management, and (ii) the board had determined to retain outside counsel to conduct an  
17 investigation into the matters raised. During the earnings call, the Company's General Counsel  
18 also repeated information that he had learned from Winston & Strawn after the Blog was  
19 published about its investigation.

20 31. The Company denies that the October 18, 2016 press release "quelled" the  
21 problems the Company faced due to the issuance of the Blog, and denies that the board of  
22 directors created the Special Committee as part of an "effort by four Board Members to deflect  
23 any scrutiny, with regard to the press release, onto others." The Company alleges that the Special  
24 Committee was formed upon the vote of all directors, with Sugarman and Brownstein abstaining,  
25 to investigate the matters alleged in the Blog about Galanis' alleged control of the Company. The  
26 Company further alleges that Seabold was not a member of the board at that time or the Special  
27 Committee and has no personal knowledge about the Special Committee or its investigation.  
28 Defendants contend that Sugarman is the source for the allegations in Paragraph 31, and that the

la-1365021

1 Complaint repeats Sugarman's attacks on the members of the board whom Sugarman blames for  
2 later demanding his resignation. The Company also alleges that the suggestion in Paragraph 31  
3 of the Complaint that the Special Committee investigation was unnecessary repeats statements  
4 Sugarman made at the time the Special Committee was created and thereafter. Defendants deny  
5 the remaining allegations in Paragraph 31.

6 32. Defendants admit that Sugarman and Brownstein could not properly serve on the  
7 Special Committee because the Special Committee was delegated the authority to investigate the  
8 allegations in the Blog about Galanis' alleged control of the Company, including allegations that  
9 Sugarman and Brownstein had relationships with Galanis. Defendants further admit that the  
10 board appointed directors Eric Holoman, Jonah Schnel, Jeff Karish, Halle Benett, and Bob  
11 Sznjewajs to the Special Committee. Defendants deny that the Special Committee was formed to,  
12 or could be used to, "manufacture an excuse to oust top management" or to "sweep[] their own  
13 misconduct and conflicts of interest under the rug." Defendants further allege that WilmerHale,  
14 the law firm retained by the Special Committee to assist in the investigation, assessed the  
15 independence of the Special Committee members and concluded they were independent and  
16 disinterested in the investigation they were conducting. Defendants deny the remaining  
17 allegations in Paragraph 32.

18 33. Defendants deny that the Company's board of directors assigned to the Special  
19 Committee the job of investigating "potential conflicts of interest and related party transactions"  
20 generally. Rather, Defendants contend that the Special Committee was charged with  
21 investigating the allegations in the Blog about Galanis' alleged control of the Company, which  
22 included allegations, among others, about Galanis' alleged relationships with Sugarman, Seabold,  
23 and Brownstein. The Company admits that the Special Committee thus investigated alleged  
24 connections between Galanis, Seabold, Sugarman and Brownstein. The board did not instruct the  
25 Special Committee to investigate the members of the Special Committee themselves because  
26 there were no allegations in the Blog that any of the directors on the Special Committee had  
27 relations with Galanis. Defendants further deny that there were "numerous individuals raising  
28 allegations" about conflicts of interests among the Special Committee members. The only

la-1365021

9

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 313

1 director who raised any such allegations was Sugarman, who first raised allegations about  
2 director Benett in about December 2016, after Sugarman began engaging in conduct to try to  
3 interfere with the Special Committee's investigation.

4 34. Defendants deny that any of the members of the Special Committee were hiding,  
5 or had, any conflicts of interest that caused them to lack independence in connection with the  
6 investigation the Special Committee was conducting. Defendants further allege that WilmerHale,  
7 the law firm retained by the Special Committee to assist in the investigation, assessed the  
8 independence of the Special Committee members and concluded they were independent and  
9 disinterested in the investigation they were conducting. Defendants deny that Holoman resigned  
10 as a director two months after the Special Committee was formed and allege that he served as a  
11 director until his term ended in June 2017. Defendants admit that Holoman resigned from the  
12 Special Committee but lack sufficient information or belief to state the reasons Holoman chose to  
13 resign as a member of the Special Committee because Holoman did not give any reason for his  
14 resignation.

15 35. Defendants deny that the Special Committee applied a "double standard" because,  
16 as alleged above, the Special Committee was not charged with investigating the members of the  
17 Special Committee since they were delegated the duty to investigate themselves by the board.  
18 Defendants further allege that WilmerHale, the law firm retained by the Special Committee to  
19 assist in the investigation, assessed the independence of the Special Committee members and  
20 concluded they were independent and disinterested in the investigation they were conducting.

21 36. Defendants admit that Benett has served as a director of the Bank since 2013 and  
22 as a director of the Company since 2014. Defendants deny the remaining allegations in  
23 Paragraph 36.

24 37. Defendants deny that a Company director is required to give notice to the board  
25 whenever a director takes a new position with the director's existing employer, and they deny that  
26 Benett was required to advise the board in 2014, the year in which he was elected as a director of  
27 PacTrust, that his job title had changed at Keefe, Bruyette & Woods ("KBW"). Defendants  
28 further allege that Benett met his obligation to keep the Company informed of his business

la-1365021

10

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 314

1 activities so that his independence could be properly evaluated and, despite no specific obligation  
2 to do so, did disclose that he was Co-Head of the Diversified Financials Group at KBW, which  
3 was disclosed in the Company's April 2014 Proxy. Defendants deny the remaining allegations in  
4 Paragraph 37.

5 38. Defendants are unaware of any "corporate opportunities" that Benett "usurped" for  
6 himself that he was required first to offer to the Company, and are informed and believe there  
7 were none. Defendants deny that Seabold ever raised any concerns about Benett usurping  
8 corporate opportunities. Defendants further allege that Sugarman did not raise any concerns about  
9 Mr. Benett usurping corporate opportunities until about December 2016, after Sugarman began  
10 engaging in conduct to attempt to interfere with the Special Committee's  
11 investigation. Defendants are informed and believe, and on that basis allege, that Benett resigned  
12 from KBW in August 2016, long before Sugarman began his attack on Benett, and that Benett did  
13 not resign from KBW in order to address concerns that had been raised that Benett had usurped  
14 corporate opportunities or to eliminate any claimed conflicts of interest. Defendants deny the  
15 remaining allegations in Paragraph 38.

16 39. Defendants admit that in about December 2016, after Sugarman raised concerns  
17 about the creation of the Special Committee and the investigation it was conducting into the  
18 allegations in the Blog about Sugarman and his affiliated companies, Sugarman proposed that the  
19 board investigate whether Benett should have tendered his resignation as a director; and that  
20 Sugarman's allegations were referred to the board's Governance Committee, which consisted of  
21 the chair Chad Brownstein, the vice-chair Eric Holoman, and Jonah Schnel. Mr. Schnel was  
22 never the chair of the Governance Committee, contrary to Seabold's allegation. After review and  
23 consideration of the matter, the Governance Committee unanimously agreed that there was no  
24 reason to request Benett's resignation as a director. Further, Defendants are informed and believe  
25 that Schnel did not state that director Karish was in the same position as Benett and would have to  
26 be investigated. Defendants deny the remaining allegations in Paragraph 39.

27 40. Defendants admit that Benett announced in December 2016 his intent not to run  
28 for re-election to the board of directors for personal reasons, based upon his assessment of the

la-1365021

11

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 315

1 demands of his business activities and employment. Defendants are informed and believe that at  
2 the time Benett announced he would not run for re-election, he intended not to run for re-election.  
3 Defendants are informed and believe that, after the demands associated with being a member of  
4 the Special Committee lessened, Benett later re-evaluated his position and decided to remain a  
5 director in part to oversee, in his capacity as chair of the Governance Committee and  
6 Nominations Committee, the corporate governance changes and board recruitment efforts that  
7 were underway. Defendants deny the remaining allegations in Paragraph 40.

8 41. The Company admits that it issued a press release on January 23, 2017 and refers  
9 to that press release for a complete statement of its contents. The Company admits that that press  
10 release stated, among other things, that “[w]hile certain work remains to be completed, to date  
11 WilmerHale’s inquiry has not found any violation of law. In addition, contrary to the claims in  
12 the blog post, the inquiry has not found evidence that Jason Galanis has any direct or indirect  
13 control or undue influence over the Company. Furthermore, the inquiry has not found evidence  
14 establishing that any loan, related party transaction, or any other circumstance has impaired the  
15 independence of any director.” Defendants also admit that on February 7, 2017, the Company  
16 “announced that the Special Committee of its Board of Directors (the ‘Board’) has received the  
17 final report of the independent investigation into previously disclosed blogger allegations. The  
18 report concludes that there was no violation of law and that Jason Galanis had no indirect or  
19 direct control or undue influence over the Company.” Defendants refer to the January 23, 2017  
20 and February 7, 2017 press releases for a complete statement of their contents. Defendants deny  
21 that the Company ever disclosed or concluded that “no justification for any for cause terminations  
22 had been uncovered” or that it was part of the Special Committee’s mandate to make such a  
23 determination. Defendants also deny that the “the Special Committee manufactured an excuse to  
24 oust Mr. Sugarman” or that the Special Committee took any action related to Sugarman’s  
25 employment status. Defendants deny the remaining allegations in Paragraph 41.

26 42. The Company admits that on January 23, 2017, it issued a second press release and  
27 refers to that press release for a complete statement of its contents. The Company admits that that  
28 press release stated, among other things, that Sugarman was resigning as CEO and as a director of

la-1365021

12

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 316

01/16/2018

1 the Company. Defendants deny that Sugarman has any basis to claim he resigned because  
2 members of the Special Committee “would not allow him to implement an appropriate SOX  
3 control environment including ensuring adequate disclosures, including of their own conflicts.”  
4 Defendants allege that on Friday, January 20, 2017, Sugarman was informed through counsel that  
5 members of the board would raise at a board meeting on Sunday, January 22, 2017 the issue  
6 whether Sugarman should be terminated as CEO for cause if he did not resign as both the CEO  
7 and a director before that meeting. On January 22, 2017, the Company provided Sugarman with  
8 notice of grounds for termination with cause, including that Sugarman had resisted and attempted  
9 to prevent the formation of the Special Committee and, once the Special Committee was formed,  
10 he interfered with and delayed the Special Committee’s investigation; Sugarman had provided  
11 inaccurate information to the Special Committee’s lawyers about the responsibility for the  
12 October 18, 2016 press release; Sugarman had raised – before later abandoning – a number of  
13 baseless objections to his turning over to the Special Committee his Company-issued devices,  
14 which delayed the Committee’s review of those devices by weeks; Sugarman had directed an  
15 attorney, Sanford Michelman, purportedly acting on behalf of the Company to take a number of  
16 meritless positions, purportedly on behalf of the Company, objecting to the Company’s  
17 production of documents requested by the Special Committee, causing further delay; Sugarman  
18 had caused a long delay in the production of materials requested by the Special Committee that  
19 Sugarman claimed were controlled by the COR entities – entities over which he had control;  
20 Sugarman had instructed others at the Company to delay resolving a potential default by the  
21 Company on a credit line in order to put pressure on the Special Committee to conclude its  
22 investigation; Sugarman had interfered with directors having direct communication with officers  
23 of the Company, and indicated to officers that it could be a violation of law if there were direct  
24 communication between directors and officers; and Sugarman had ordered the issuance of the  
25 October 18, 2016 press release despite knowing of inaccuracies, which the Company referenced  
26 in a January 23 press release. Defendants contend that Sugarman should have known that the  
27 statement in the October 18, 2016 press release he drafted that “[t]he Company’s Board of  
28 Directors has been aware of matters relating to Jason Galanis including certain claims he had

la-1365021

13

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 317



1 made suggesting an affiliation with members of the Company, its Board, and/or its Executive  
2 team” was inaccurate. Defendants allege that Sugarman knew that he had not informed the full  
3 board about any matters “relating to Jason Galanis including certain claims he had made  
4 suggesting an affiliation with members of the Company, its Board, and/or its Executive team” and  
5 that Sugarman himself was made the decision that Winston & Strawn should conduct an  
6 investigation regarding Galanis and any connections he might have to the Company. Defendants  
7 further contend that Sugarman then contacted the Company’s General Counsel and told the  
8 General Counsel that “the board” wanted to conduct an investigation, although at that time the  
9 full board had not been advised about Galanis, any connections Galanis might have with the  
10 Company, with Sugarman, or anyone else, or that Galanis had been indicted in September 2015.  
11 Defendants contend that Brownstein and Winston & Strawn then contacted the Company’s  
12 General Counsel, reiterated that the board wanted to conduct an investigation, and asked whether  
13 the Company’s Governance Committee was the appropriate committee to receive reports about  
14 the Winston & Strawn investigation. Defendants further contend that Sugarman should have  
15 known that the statement he had written that “[t]he Board, acting through its Disinterested  
16 Directors, immediately initiated a thorough independent investigation led by Winston & Strawn”  
17 was inaccurate because Sugarman knew that Sugarman himself initiated the investigation by  
18 Winston & Strawn. Sugarman also should have known that his statement that the board had  
19 received reports “related to regulatory and governmental communications over the past year”  
20 overstated both the degree to which the Company had been in contact with regulatory agencies  
21 about the subject matter referenced in the Blog, as well as the involvement of the directors in  
22 overseeing or directing Winston & Strawn’s investigation. Also, neither the board of directors  
23 nor the Company’s General Counsel was fully aware on October 18, 2016 of all the various  
24 matters where Winston & Strawn had individually and separately represented Sugarman  
25 personally, or his family members personally, or the non-Company entities Sugarman controlled.  
26 On October 18, 2016, the board also did not know that the “representative of COR” that  
27 Sugarman referenced in the October 18, 2016 press release he drafted was Sugarman himself. As  
28 of October 18, 2016, Sugarman had also not informed the board that he had been interviewed by

la-1365021

14

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 318

01/16/2018

1 the Department of Justice regarding possible connections between Galanis and Sugarman's COR  
2 entities or any other topics. On January 22, 2017, Sugarman's attorneys sent a letter raising  
3 allegations regarding other board members, which allegations have been repeated by Seabold and  
4 Sugarman's other proxies who have since filed suit against the Company, further evidencing the  
5 collaboration between Sugarman, Seabold, and the other persons who have filed suit against the  
6 Company. Defendants contend that, at the board meeting on January 22, 2017, one of the Bank's  
7 directors stated that Sugarman had asked that that director oversee the attorney, Sanford  
8 Michelman, who had objected, purportedly on behalf of the Bank to the Special Committee's  
9 request for documents from the Bank, and that director refused to do as Sugarman asked. At the  
10 board meeting on January 22, 2017, a majority of the board stated that they had lost confidence in  
11 Sugarman and that, if Sugarman did not resign as CEO and a director, they would proceed to a  
12 vote on whether to terminate Sugarman for cause. Sugarman's unacceptable personal and  
13 unprofessional conduct after the Blog was published and during the Special Committee's  
14 investigation caused a majority of the board of directors to lose confidence in Mr. Sugarman's  
15 ability to effectively lead the Company going forward. Defendants assert that, notwithstanding  
16 Sugarman's obstructionist conduct, the Special Committee was able to complete its investigation  
17 and conclude that it found no evidence that Galanis controlled the Company or that there had  
18 been any violation of law. Defendants believe that, after receiving the notice of grounds of  
19 termination and listening to the other directors on January 22, 2017, Sugarman realized that he  
20 would be terminated as CEO for cause if he did not resign. Sugarman thereafter decided to  
21 resign. The terms of his resignation were negotiated on January 22, 2017 and agreed upon in a  
22 written Separation Agreement, which Defendants refer to for a complete statement of its contents.  
23 Among other provisions in the Separation Agreement, the parties agreed to mutual releases.  
24 Pursuant to those releases Sugarman released the Company, its officers and directors, and others  
25 from any and all claims. Defendants contend that Sugarman has used Seabold and others to  
26 allege claims that Sugarman himself released. Sugarman's resignation was publicly announced  
27 on the morning of January 23, 2017. Defendants deny the remaining allegations in Paragraph 42.

28 43. Defendants deny that Sugarman's resignation allowed Benett to remain a board

la-1365021

15

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 319



1 member because, among other reasons, the Governance Committee had already concluded that  
2 there was no reason to request Benett to resign as a board member. Defendants also deny that  
3 Benett has been able to “grab power” since he is only one member of a nine person board.  
4 Defendants admit and allege that Sugarman was the only director who alleged that Benett had  
5 conflicts of interest, which allegations were raised only after Sugarman was unable to prevent the  
6 creation of the Special Committee and the retention of WilmerHale to conduct the investigation.  
7 Defendants deny that Benett or the other directors who indicated that they favored the resignation  
8 of Sugarman sought to “cash in on substantial Board fees.” Defendants allege that compensation  
9 for all directors was in fact reduced in March 2017 upon the recommendation of the  
10 Compensation Committee, which consisted of directors Karish, Sznewajs, and Benett.  
11 Defendants deny the remaining allegations in Paragraph 43.

12 44. Defendants deny that Karish was required to, but failed to, disclose “to the Banc  
13 and investors” any information alleged in Paragraph 44. Defendants allege on information and  
14 belief that Mr. Karish personally bought and sold approximately \$3,000 worth of publicly traded  
15 shares in Chad Brownstein’s prior public company. Other than that investment, Mr. Karish has  
16 no financial interest in and did not initiate, or have control over, any investment decision in Chad  
17 Brownstein’s company.” On information and belief, Defendants deny the remaining allegations  
18 in Paragraph 44.

19 45. Defendants deny that Karish was required to, but failed to, disclose any  
20 information alleged in Paragraph 45. Defendants otherwise lack sufficient information to admit  
21 or deny the allegations in Paragraph 45.

22 46. Defendants deny that the Company’s “SOX signatories required that Mr. Karish’s  
23 conflicts be reviewed, and, as appropriate, disclosed to investors” or that Karish objected to any  
24 review of any alleged conflicts of interest. Defendants deny the remaining allegations in  
25 Paragraph 46.

26 47. Defendants are informed and believe that Mr. Sznewajs did not as Audit  
27 Committee chair approve the hiring of any firm where his son was employed to underwrite a  
28 Company offering. Defendants deny that they ever hired one of Mr. Sznewajs’ family members.

la-1365021

16

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 320

1 Defendants deny the remaining allegations in Paragraph 47.

2 48. Defendants deny that any of the directors on “the Special Committee  
3 manipulate[d] the Special Investigation to achieve their desired ends [of] removing Mr. Sugarman  
4 from the Company and assuming control.” Defendants allege that the members of the Special  
5 Committee do not have “control” of the Company. Defendants deny the remaining allegations in  
6 Paragraph 48.

7 49. Defendants admit that they wanted to sell pools of commercial and/or residential  
8 loans, per their then-existing business model. Defendants deny that the purpose of those sales  
9 was to ensure that the Company met analyst’s consensus operating EPS for the first quarter 2017.  
10 Defendants deny the remaining allegations in Paragraph 49.

11 50. Defendants deny that they “resorted to manufacturing earnings” or that such a  
12 phrase has any meaning. Defendants also deny that any spokesperson for the Company issued, or  
13 failed to refute, guidance for 2017 earnings that the person did not believe was appropriate given  
14 the information at the time. Defendants deny the remaining allegations in Paragraph 50.

15 51. Defendants deny that the Company eliminated transparency from the financial  
16 reporting and budgeting processes. Defendants further deny that the Company “reassessed”  
17 bonus “accruals” for 2016 in 2017, but admit that in March 2017 the Compensation Committee  
18 and the board determined the amount of bonuses that would be paid in March 2017 for fiscal year  
19 2016 would be at a level lower than had been accrued for as of December 31, 2016, as the  
20 Compensation Committee and board were within their rights to do. Defendants allege that the  
21 bonuses paid to Seabold and other executives for fiscal year 2016 were discretionary and not  
22 contractual, and were always subject to a final and binding decision by the Compensation  
23 Committee and the board. Defendants deny that Seabold was entitled to a “guaranteed” bonus for  
24 fiscal year 2016. While a good faith bonus accrual estimate was made at year end 2016 for  
25 accounting purposes, the actual amounts paid were not finally determined or paid until March  
26 2017. At that time, the Compensation Committee and board decided to reduce the 2016 bonus  
27 pool, appropriately taking into consideration the extraordinary events of late 2016 and early 2017,  
28 and the nature of the Company’s net income in 2016, which included many non-recurring, one-

la-1365021

17

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 321

1 time income items. The decision had nothing to do with shifting income between 2016 and 2017.  
2 The accounting treatment for the bonus reduction was determined by the Company's accounting  
3 department to be a change in accounting estimate under generally accepted accounting principles  
4 (GAAP). GAAP required that the change in estimate be recorded in 2017, the period in which the  
5 change in estimate was made. Defendants deny the remaining allegations in Paragraph 51.

6 52. Defendants deny that the Company "reassessed" bonus "accruals" for 2016 in  
7 2017, but admit that in March 2017 the Compensation Committee and the board determined the  
8 amount of bonuses that would be paid in March 2017 for fiscal year 2016 would be at a level  
9 lower than had been accrued for as of December 31, 2016, as the Compensation Committee and  
10 board were within their rights to do. Defendants allege that the bonuses paid to Seabold and other  
11 executives for fiscal year 2016 were discretionary and not contractual, and were always subject to  
12 a final and binding decision by the Compensation Committee and the board. Defendants deny  
13 that Seabold was entitled to a "guaranteed" bonus for fiscal year 2016. While a good faith bonus  
14 accrual estimate was made at year end 2016 for accounting purposes, the actual amounts paid  
15 were not finally determined or paid until March 2017. At that time, the Compensation Committee  
16 and board decided to reduce the 2016 bonus pool, appropriately taking into consideration the  
17 extraordinary events of late 2016 and early 2017, and the nature of the Company's net income in  
18 2016, which included many non-recurring, one-time income items. The decision had nothing to  
19 do with shifting income between 2016 and 2017. The accounting treatment for the bonus  
20 reduction was determined by the Company's accounting department to be a change in accounting  
21 estimate under generally accepted accounting principles (GAAP). GAAP required that the  
22 change in estimate be recorded in 2017, the period in which the change in estimate was made.  
23 Defendants deny the remaining allegations in Paragraph 52.

24 53. Defendants admit that Heather Endresen, another former employee aligned with  
25 Sugarman and who was disappointed not to receive a larger bonus for fiscal year 2016, raised the  
26 issue about the 2016 bonus accruals referenced in Paragraphs 51 and 52 of the Complaint.  
27 Defendants contend that Endresen at a minimum received assistance from Sugarman in  
28 formulating the complaint she raised about the 2016 bonus accrual. Defendants admit that

la-1365021

18

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 322

1 Endresen insisted on having one of the Company's newly appointed, non-management directors  
2 involved in hearing and responding to her allegations and employment concerns. The Company  
3 accommodated this extraordinary demand by asking director Richard Lashley, who was  
4 appointed to the board in early 2017, to become involved. The Company spent a significant  
5 amount of time and effort listening to and investigating Ms. Endresen's allegations and concerns.  
6 Ultimately, Ms. Endresen's allegations were either factually incorrect or no corroborating  
7 evidence was found. The Company explained in detail the information set out above in  
8 Paragraphs 51 and 52 of this Amended Answer, but Ms. Endresen nonetheless included in her  
9 subsequent complaint the same meritless claim that she was "owed" a bonus in the amount that  
10 the Company accrued for in 2016. Defendants deny the remaining allegations in Paragraph 53.

11 54. Defendants admit that they issued a press release on January 23, 2017 to which  
12 Defendants refer for a complete statement of its contents. Defendants deny that the press release  
13 stated that the Company "was under investigation by the Securities and Exchange Commission."  
14 Defendants further deny that the press release "explained that the SEC was demanding  
15 information related to the Company's October 18 press release responding to the *Seeking Alpha*  
16 allegations that the Company was connected to, and possibly controlled by, Jason Galanis."  
17 Rather, the Company's press release stated, in pertinent part, that "on January 12, 2017, the  
18 Securities and Exchange Commission ("SEC") issued a formal order of investigation directed at  
19 certain of the issues that the Special Committee is reviewing. Also on January 12, 2017, the SEC  
20 issued a subpoena seeking certain documents from the Company, primarily relating to the  
21 October 18, 2016 press release and associated public statements. The Company intends to fully  
22 cooperate with the SEC; in addition, the Special Committee will share the results of its review  
23 with the SEC staff." Defendants deny the remaining allegations in Paragraph 54.

24 55. Defendants lack information sufficient to enable them to admit or deny the  
25 allegations in Paragraph 55, and on that basis deny those allegations.

26 56. Defendants deny that they have any concern that Seabold's testimony to the SEC  
27 "could expose the Board members' conflicts and financial misconduct," provided that Seabold  
28 provided honest and accurate testimony. Defendants further deny that the Company made any

la-1365021

19

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 323

1 effort to undermine his testimony before the SEC, or that the Company disparaged or discredited  
2 him. The Company, which did not accede to Seabold's employment demands, made no effort to  
3 influence Seabold's testimony. Defendants deny the remaining allegations in Paragraph 56.

4 57. Defendants admit that the Company's most recent 10-K dated March 31, 2017, to  
5 which Defendants refer for a complete statement of its contents, includes a report from the  
6 Company's independent auditor, which stated: "a material weakness related to inadequate tone at  
7 the top regarding the importance of internal control over financial reporting, which adversely  
8 impacted a number of processes resulting in an ineffective risk assessment process, ineffective  
9 monitoring activities, and insufficient resources or support and caused the Company to experience  
10 an increase in the number of control deficiencies across multiple processes has been identified  
11 and included in the accompanying Management's Report on Internal Control over Financial  
12 Reporting." Defendants further allege that the auditor's report stated that "[t]his material  
13 weakness was considered in determining the nature, timing, and extent of audit tests applied in  
14 our audit of the 2016 consolidated financial statements, and this report does not affect our report  
15 dated March 1, 2017, which expressed an unqualified opinion on those consolidated financial  
16 statements." Defendants further allege that as of the date that material weakness was identified,  
17 December 31, 2016, Sugarman was the CEO of the Company. Defendants deny the remaining  
18 allegations in Paragraph 57.

19 58. Defendants refer to PCAOB Auditing Standard No. 5, Appendix A – Definitions  
20 for a complete statement of its contents.

21 59. Defendants deny that they have promoted the persons at the Company who were  
22 responsible for setting an inappropriate "tone at the top regarding the importance of internal  
23 control over financial reporting." Defendants allege that demanding, and procuring, the  
24 resignation of Sugarman was an important component of the remediation plan the Company put  
25 in place to correct the material weakness referenced in the Company's 2016 Form 10-K.  
26 Defendants deny the remaining allegations in Paragraph 59.

27 60. Defendants admit that the Company's 2016 10-K, which was filed on March 1,  
28 2017, and to which Defendants refer for a complete statement of its contents, includes the quoted

la-1365021

20

1 passage. Defendants deny the remaining allegations in Paragraph 60.

2 61. Defendants deny the allegations in Paragraph 61. As the Company found, as of  
3 December 31, 2016, there was an inadequate “tone at the top regarding the importance of internal  
4 control over financial reporting,” which would include Sugarman and Seabold. Defendants deny  
5 the remaining allegations in Paragraph 61.

6 62. Defendants admit that the Company terminated the former Senior Vice President  
7 of SOX, and the former Executive Vice President, Chief of Staff. Defendants deny the remaining  
8 allegations in Paragraph 62.

9 63. Defendants admit that the Company, with a new CEO and five directors who were  
10 not on the board at the end of 2016, has altered its business model since Sugarman resigned.  
11 Defendants deny that directors Benett, Karish, Schnel and Sznnewajs “control” the Company.  
12 Defendants deny the remaining allegations in Paragraph 63.

13 64. Defendants deny the allegations in Paragraph 64.

14 65. Defendants admit that they learned information indicating that Seabold had  
15 misused the Company’s expense account; refused and continues to refuse to return to the  
16 Company devices owned by the Company provided to him in his capacity as an employee and  
17 officer which substantially delayed the Special Committee’s investigation; traded the Company’s  
18 stock on margin in violation of Company policy; and improperly loaned money to an independent  
19 contractor of a Bank subsidiary. Based on that conduct, on about March 14, 2017, the Company  
20 informed Seabold that it had grounds to terminate Seabold for cause, and it placed Seabold on  
21 administrative leave while it attempted to work out the terms of Seabold’s potential separation  
22 through Seabold’s attorneys. Defendants deny the remaining allegations in Paragraph 65.

23 66. Defendants are informed and believe that Sugarman is the person who made the  
24 alleged statements to Seabold. Defendants lack sufficient information to admit or deny what  
25 some unnamed person may have said to Seabold. Defendants deny the remaining allegations in  
26 Paragraph 66.

27 67. Defendants allege that Seabold engaged in misconduct which warranted  
28 termination for cause. Defendants deny the remaining allegations in Paragraph 67.



1           68. Defendants deny that they ever concluded, or stated, that the Company lacked  
2 grounds to terminate Seabold for cause. Defendants admit that, after hearing the extraordinary  
3 demands Seabold made if he were to agree to resign from the Company, the Company concluded  
4 it was in the better interests of the Company and shareholders to advise Seabold to return to work  
5 in a position where his prior misconduct could not recur. Pursuant to the July 26, 2016 Consent,  
6 the Company's CEO had the right to assign Seabold whatever duties and responsibilities the CEO  
7 saw fit to assign. Based on this authority (to which Seabold had expressly agreed in writing), the  
8 Company's CEO assigned Seabold certain duties and responsibilities which the CEO hoped  
9 Seabold could fulfill to the benefit of the Company, while ensuring that Seabold's prior  
10 misconduct could not recur. Rather than perform the job assigned to him, Seabold opted to resign  
11 and commence this action. Defendants deny the remaining allegations in Paragraph 68.

12           69. Defendants admit that Seabold refused to return to work and perform the job  
13 assigned to him, and that Seabold demanded that the Company reinstate all the perquisites that  
14 Seabold had been given by Sugarman, including his access to an expense account and staff, and  
15 also demanded an increased or guaranteed bonus for 2016. Defendants deny that Seabold had  
16 any right to an increased or guaranteed bonus, for the reasons alleged above. Defendants deny  
17 the remaining allegations in Paragraph 69.

18           70. Defendants admit that, pursuant to the July 26, 2016 Consent, the Company's  
19 CEO could assign Seabold whatever duties and responsibilities the CEO saw fit to assign. The  
20 Company's CEO assigned Seabold certain duties and responsibilities which the CEO hoped  
21 Seabold could fulfill to the benefit of the Company, while ensuring that Seabold's prior  
22 misconduct could not recur. Defendants deny the remaining allegations in Paragraph 70.

23           71. Defendants admit that Seabold asked the Company employees who previously  
24 reported to him for a meeting after the time those persons had been reassigned and given new  
25 responsibilities and reports. Defendants also admit that Seabold was given new duties and  
26 responsibilities by the CEO, as was expressly permitted under the July 26, 2016 Consent.  
27 Defendants deny the remaining allegations in Paragraph 71.

28           72. Defendants admit that Seabold was given new duties and responsibilities by the

1 CEO, as was expressly permitted under the July 26, 2016 Consent. Defendants deny the  
2 remaining allegations in Paragraph 72.

3 73. Defendants admit that Seabold was given new duties and responsibilities by the  
4 CEO, as was expressly permitted under the July 26, 2016 Consent, and that thereafter he was not  
5 an executive officer as defined in Securities and Exchange Commission rules. Defendants deny  
6 the remaining allegations in Paragraph 73.

7 74. Defendants admit that Seabold was given new duties and responsibilities by the  
8 CEO, as was expressly permitted under the July 26, 2016 Consent. Defendants deny the  
9 remaining allegations in Paragraph 74.

10 75. Defendants refer to the Amended Employment Agreement for a complete  
11 statement of its contents.

12 76. Defendants deny that Seabold could not be assigned new or different duties and  
13 responsibilities if Seabold did not like or approve of those new or different duties and  
14 responsibilities. Pursuant to the July 26, 2016 Consent, the Company's CEO could assign  
15 Seabold the duties and responsibilities the CEO saw fit to assign. Defendants deny the remaining  
16 allegations in Paragraph 76.

17 77. Defendants admit that in April 2017 the Company adopted a Performance Unit  
18 Agreement (the "PUA"), which set forth goals for Seabold going forward based on his then  
19 current duties and responsibilities, as the Company had a right to do. Defendants refer to the  
20 PUA for a complete statement of its contents. Defendants deny the remaining allegations in  
21 Paragraph 77.

22 78. Defendants admit that in April 2017 the Company adopted a Performance Unit  
23 Agreement (the "PUA"), as the Company had a right to do, which set forth goals for Seabold  
24 going forward based on his then current duties and responsibilities, and which took into account  
25 the target bonus Seabold was eligible to earn. Defendants refer to the PUA for a complete  
26 statement of its contents. Defendants deny that the goals set forth in the PUA were unachievable  
27 had Seabold sought to meet them. Defendants deny the remaining allegations in Paragraph 78.

28 79. Defendants deny that the Company had an obligation to pay Seabold more as a

la-1365021

23



1 bonus for 2016 than the Company paid. Defendants allege that the bonuses paid to Seabold and  
2 other executives for fiscal year 2016 were discretionary and not contractual. While a good faith  
3 bonus accrual estimate was made at year end 2016 for accounting purposes, the actual amounts  
4 paid were not finally determined or paid until March 2017. The 2016 bonuses were always  
5 subject to a final and binding decision by the Compensation Committee and the board. The  
6 Compensation Committee's and Board's decision in March 2017 to reduce the 2016 bonus pool  
7 appropriately took into consideration the extraordinary events of late 2016 and early 2017, and  
8 the nature of the Company's net income in 2016, which included many non-recurring, one time  
9 income items. Defendants deny the remaining allegations in Paragraph 79.

10 80. Defendants admit, that on about July 18, 2017, the Company, through counsel,  
11 advised Seabold that in addition to the grounds for termination for cause provided to Seabold on  
12 March 14, 2017, the Company had additional grounds to terminate Seabold's employment  
13 because he refused to perform the duties and responsibilities assigned to him. Defendants deny  
14 the remaining allegations in Paragraph 80.

15 81. Defendants admit that on about May 10, 2017 Seabold's attorneys purported to  
16 give notice of Seabold's right to resign for good reason pursuant to the Amended Employment  
17 Agreement. Defendants deny that Seabold had the right to resign for good reason, as defined in  
18 the Amended Employment Agreement. Defendants deny the remaining allegations in Paragraph  
19 81.

20 82. Defendants refer to the indemnity agreement with Seabold for a complete  
21 statement of its contents. Defendants deny that they have breached that agreement. Defendants  
22 deny the remaining allegations in Paragraph 82.

23 83. Defendants refer to the indemnity agreement with Seabold for a complete  
24 statement of its contents. Defendants deny that they have breached that agreement. Defendants  
25 deny the remaining allegations in Paragraph 83.

26 84. Paragraph 84 does not allege facts that Defendants have any duty to answer.  
27 Defendants incorporate their answer to each of the foregoing paragraphs.

28 85. Defendants deny the allegations in Paragraph 85.

la-1365021

24

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 328

1           86. Defendants admit that the Bank entered into an employment agreement dated  
2 March 13, 2013, which was amended and restated on April 1, 2015, and further amended on  
3 January 1, 2016, and which was modified by the July 26, 2016 Consent. Defendants deny the  
4 remaining allegations in Paragraph 86.

5           87. Defendants deny the allegations in Paragraph 87.

6           88. Defendants deny the allegations in Paragraph 88.

7           89. Defendants deny the allegations in Paragraph 89.

8           90. Defendants deny the allegations in Paragraph 90.

9           91. Defendants refer to the Amended Employment Agreement for a complete  
10 statement of its contents. Defendants allege that, pursuant to the Amended Employment  
11 Agreement, the Company has no obligation to pay Seabold's attorneys fees and costs unless  
12 Seabold prevails on his claims in this action.

13           92. Paragraph 92 does not allege facts that Defendants have any duty to answer.  
14 Defendants incorporate their answer to each of the foregoing paragraphs.

15           93. Defendants deny the allegations in Paragraph 93.

16           94. Defendants admit that the Bank entered into an employment agreement dated  
17 March 13, 2013, which was amended and restated on April 1, 2015, and further amended on  
18 January 1, 2016, and which was modified by the July 26, 2016 Consent. Defendants deny the  
19 remaining allegations in Paragraph 94.

20           95. Defendants deny the allegations in Paragraph 95.

21           96. Defendants deny the allegations in Paragraph 96.

22           97. Defendants deny the allegations in Paragraph 97.

23           98. Defendants refer to the Amended Employment Agreement for a complete  
24 statement of its contents. Defendants allege that, pursuant to the Amended Employment  
25 Agreement, the Company has no obligation to pay Seabold's attorneys fees and costs unless  
26 Seabold prevails on his claims in this action.

27           99. Paragraph 99 does not allege facts that Defendants have any duty to answer.  
28 Defendants incorporate their answer to each of the foregoing paragraphs.

la-1365021

25

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 329

1 100. Defendants admit that the Bank entered into an employment agreement dated  
2 March 13, 2013, which was amended and restated on April 1, 2015, and further amended on  
3 January 1, 2016, and which was modified by the July 26, 2016 Consent. Defendants deny the  
4 remaining allegations in Paragraph 100.

5 101. Defendants deny the allegations in Paragraph 101.

6 102. Defendants deny the allegations in Paragraph 102.

7 103. Defendants deny the allegations in Paragraph 103.

8 104. Paragraph 104 does not allege facts that Defendants have any duty to answer.  
9 Defendants incorporate their answer to each of the foregoing paragraphs.

10 105. Defendants admit that Seabold was an employee of the Company.

11 106. Defendants deny that they terminated Seabold's employment. Defendants'  
12 decision to give Seabold notice of grounds to terminate Seabold's employment for cause had  
13 nothing to do with the fact that he had been subpoenaed to testify by the SEC or that the  
14 Company feared he would report violations of law to the SEC when he testified. Seabold's  
15 allegation makes no sense. Defendants never "constructively terminated" Seabold. Defendants  
16 do not know when the SEC subpoenaed Seabold and note that Seabold did not resign until long  
17 after February 3, 2017, the date he alleges he received a subpoena from the SEC. Defendants  
18 deny the remaining allegations in Paragraph 106.

19 107. Defendants deny the allegations in Paragraph 107.

20 108. Defendants lack knowledge that Seabold ever "report[ed] a reasonably suspected  
21 violation of the law to a government or law enforcement agency." Defendants deny the  
22 remaining allegations in Paragraph 108.

23 109. Defendants deny the allegations in Paragraph 109.

24 110. Defendants deny the allegations in Paragraph 110.

25 111. Defendants deny the allegations in Paragraph 111.

26 112. Paragraph 112 does not allege facts that Defendants have any duty to answer.  
27 Defendants incorporate their answer to each of the foregoing paragraphs.

28 113. Defendants deny the allegations in Paragraph 113.

la-1365021

26

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 330

- 1 114. Defendants deny the allegations in Paragraph 114.
- 2 115. Defendants deny the allegations in Paragraph 115.
- 3 116. Defendants deny the allegations in Paragraph 116.
- 4 117. Paragraph 117 does not allege facts that Defendants have any duty to answer.
- 5 Defendants incorporate their answer to each of the foregoing paragraphs.
- 6 118. Defendants deny the allegations in Paragraph 118.
- 7 119. Defendants deny the allegations in Paragraph 119.
- 8 120. Defendants deny the allegations in Paragraph 120.
- 9 121. Defendants deny the allegations in Paragraph 121.
- 10 122. Defendants deny the allegations in Paragraph 122.

11

12 **AFFIRMATIVE DEFENSES**

13 Defendants state below the separate and independent additional defenses to the Complaint

14 and each purported cause of action and allegation thereof. Defendants, however, do not assume

15 the burden of proof on any such defense except as required by applicable law with respect to the

16 particular defense asserted. Defendants reserve the right to assert additional affirmative and other

17 defenses and otherwise to supplement this answer upon discovery of facts or evidence rendering

18 such action appropriate.

19

20

21 **FIRST AFFIRMATIVE DEFENSE**

22 **(Failure to State a Cause of Action)**

23 As a separate and independent affirmative defense, Defendants allege that the Complaint

24 and each purported cause of action contained therein fail to state facts sufficient to constitute a

25 cause of action.

26 **SECOND AFFIRMATIVE DEFENSE**

27 **(Full Performance)**

28 As a separate and independent affirmative defense, Defendants allege that they performed

la-1365021

27

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 331

1 all conditions, covenants, and promises required on their part to be performed pursuant to any  
2 agreement with Plaintiff.

3 **THIRD AFFIRMATIVE DEFENSE**

4 **(Justification)**

5 As a separate and independent affirmative defense, Defendants allege that the conduct by  
6 Defendants was fully justified or privileged and supported by good cause.

7 **FOURTH AFFIRMATIVE DEFENSE**

8 **(Breach of Contract)**

9 As a separate and independent affirmative defense, Defendants allege that the Complaint  
10 is barred due to Plaintiff's breach of contract.

11 **FIFTH AFFIRMATIVE DEFENSE**

12 **(Good Faith)**

13 As a separate and independent affirmative defense, Defendants allege that they did not  
14 breach the covenant of good faith and fair dealing because at all times relevant and material  
15 herein, Defendants acted in good faith and had reasonable grounds for believing they did not  
16 violate the Employment Agreement or interfere with Plaintiff's rights thereunder.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 **(Plaintiff's Other Conduct)**

19 As a separate and independent affirmative defense, Defendants allege that the Complaint  
20 and each purported cause of action therein are barred to the extent any alleged damages were  
21 caused by the negligence, failure to perform, or other conduct of Plaintiff.

22 **SEVENTH AFFIRMATIVE DEFENSE**

23 **(Failure to Comply With Policies)**

24 As a separate and independent affirmative defense, Defendants allege that the Complaint  
25 and each purported cause of action contained therein are barred to the extent Plaintiff did not  
26 comply with Defendants' policies.

27 **EIGHTH AFFIRMATIVE DEFENSE**

28 **(Waiver)**

la-1365021

28

1 As a separate and independent affirmative defense, Defendants allege that the Complaint  
2 and each cause of action contained therein are barred because Plaintiff waived any claim he had  
3 against Defendants by his actions, to the extent Plaintiff had any such claim (which Defendants  
4 deny).

5 **NINTH AFFIRMATIVE DEFENSE**

6 **(Consent)**

7 As a separate and independent affirmative defense, Defendants allege that the Complaint  
8 and each cause of action contained therein are barred to the extent Plaintiff consented to the  
9 alleged conduct of Defendants.

10 **TENTH AFFIRMATIVE DEFENSE**

11 **(Estoppel)**

12 As a separate and independent affirmative defense, Defendants allege that the Complaint  
13 and each cause of action contained therein are barred because any conduct of Defendants that is  
14 alleged to be unlawful was taken as a result of conduct by Plaintiff, and he is thus estopped to  
15 assert any cause of action against Defendants.

16 **ELEVENTH AFFIRMATIVE DEFENSE**

17 **(Unclean Hands)**

18 As a separate and independent affirmative defense, Defendants allege that Plaintiff's  
19 remedies are limited to the extent Plaintiff has unclean hands.

20 **TWELFTH AFFIRMATIVE DEFENSE**

21 **(All Obligations Fulfilled)**

22 As a separate and independent affirmative defense, Defendants allege that, to the extent  
23 that Defendants had any obligations to Plaintiff as a result of any alleged promises or statements  
24 made to Plaintiff, which Defendants deny, Defendants fulfilled any and all such obligations,  
25 except to the extent that any such obligations were excused, waived, or otherwise not legally  
26 required.

27 **THIRTEENTH AFFIRMATIVE DEFENSE**

1 (Speculative Damages)

2 As a separate and independent affirmative defense, Defendants allege that the Complaint  
3 and each cause of action contained therein are barred because Plaintiff's damages, if any, are  
4 vague, uncertain, imaginary, and speculative.

5 FOURTEENTH AFFIRMATIVE DEFENSE

6 (Punitive Damages)

7 As a separate and independent affirmative defense, Defendants allege that the Complaint  
8 and each and every such cause of action contained therein, fails to state facts sufficient to warrant  
9 punitive and/or exemplary damages.

10 FIFTEENTH AFFIRMATIVE DEFENSE

11 (Failure to Mitigate Damages)

12 As a separate and independent affirmative defense, Defendants allege that Plaintiff's  
13 damages should be reduced by the amount he could have or did earn from other employment.

14 SIXTEENTH AFFIRMATIVE DEFENSE

15 (Offset)

16 As a separate and independent affirmative defense, Defendants allege that any damages  
17 claimed by Plaintiff should be reduced to the extent they are subject to an offset, representing  
18 amounts improperly obtained from Defendants or which would constitute unjust enrichment of  
19 Plaintiff.

20 SEVENTEENTH AFFIRMATIVE DEFENSE

21 (Performance Excused or Prevented)

22 As a separate and independent affirmative defense, Defendants allege that the Complaint  
23 is barred by performance of duties excused or prevented.

24 EIGHTEENTH AFFIRMATIVE DEFENSE

25 (No Adverse Employment Action)

26 As a separate and independent affirmative defense, Defendants allege that Plaintiff is  
27 barred from any recovery on the Complaint because Plaintiff resigned and was not constructively  
28 terminated, and the alleged acts about which Plaintiff complains do not constitute adverse

la-1365021

30

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 334

1 employment actions under applicable law.

2 **NINETEENTH AFFIRMATIVE DEFENSE**

3 **(Good Cause for Adverse Action)**

4 As a separate and independent affirmative defense, Defendants allege even if Plaintiff was  
5 subjected to an adverse action (which Defendants deny), Plaintiff is barred from any recovery on  
6 the Complaint because any action that Plaintiff contends was an adverse action was taken for  
7 good cause.

8 **TWENTIETH SEPARATE AND ADDITIONAL DEFENSE**

9 **(Paid All Sums)**

10 The Complaint and the Fifth Cause of Action is barred because Plaintiff has been paid all  
11 sums due to him by virtue of his employment.

12 **TWENTY-FIRST SEPARATE AND ADDITIONAL DEFENSE**

13 **(No Penalty Award)**

14 Plaintiff is not entitled to any penalty award under Labor Code section 203 because at all  
15 times relevant and material herein, Defendants acted in good faith and had reasonable grounds for  
16 believing they did not violate any wage provisions of the Labor Code or the Industrial Welfare  
17 Commission Order promulgated thereunder.

18 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

19 **(No Unfair or Unlawful Practice)**

20 As a separate and independent affirmative defense, Defendants allege that Plaintiff's Sixth  
21 Cause of Action is barred because Defendants have not engaged in any conduct that comes within  
22 the meaning of Business & Professions Code section 17200 et seq.

23 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

24 **(Adequate Legal Remedy)**

25 As a separate and independent affirmative defense, Defendants allege that Plaintiff's Sixth  
26 Cause of Action for the purported violation of Business & Professions Code section 17200 et  
27 seq., or any cause of action seeking restitution, disgorgement, or any other form of equitable  
28 relief, is barred because Plaintiff has an adequate remedy at law, and because any harm he

la-1365021

31

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 335



1 allegedly suffered (Defendants allege there was none) is not irreparable.

2 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

3 **(No Fundamental Public Policy)**

4 As a separate and independent affirmative defense, Defendants allege that Plaintiff's  
5 Fourth Cause of Action is barred because it is not carefully tethered to fundamental policies that  
6 are delineated in constitutional or statutory provisions.

7 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

8 **(No Right to Jury Trial)**

9 To the extent Plaintiff demands a jury trial on the Sixth Cause of Action for the purported  
10 violation of Business & Professions Code section 17200 et seq., such demand is barred because  
11 there is no right to a jury trial in civil proceedings under section 17200, which is an equitable  
12 action triable only to a court.

13 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

14 **(Unjust Enrichment)**

15 As a separate and independent affirmative defense, Defendants allege that Plaintiff would  
16 be unjustly enriched, to Defendants' detriment, if Plaintiff were awarded the damages sought  
17 under the Complaint.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Defendants pray for judgment as follows:

- 20 1. That Plaintiff take nothing by virtue of this action;
- 21 2. That the Court dismiss Plaintiff's Complaint against Defendants with prejudice;
- 22 3. That the Court award Defendants its reasonable expenses and costs, including but  
23 not limited to, reasonable attorneys' fees; and
- 24 4. That the Court grant Defendants such other and further relief as the Court deems  
25 just and proper.
- 26
- 27
- 28

1 Dated: January 11, 2018

MORRISON & FOERSTER LLP

2

3

4

By: 

MARK R. MCDONALD

5

Attorneys for Defendants  
BANC OF CALIFORNIA, INC. AND  
BANC OF CALIFORNIA, N.A.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

01/16/2018

la-1365021

33

FIRST AMENDED ANSWER TO COMPLAINT

Exhibit S - Page 337

01/16/2018

Exhibit S - Page 338

EXHIBIT B

EXHIBIT 1  
PAGE 44

COPY

1 MARK R. MCDONALD (CA SBN 137001)  
mmcdonald@mofo.com  
2 TRITIA M. MURATA (CA SBN 234344)  
tmurata@mofo.com  
3 MATTHEW J. CAVE (CA SBN 280704)  
mcave@mofo.com  
4 AMY LAWRENCE (CA SBN 311154)  
amylawrence@mofo.com  
5 MORRISON & FOERSTER LLP  
707 Wilshire Boulevard, Suite 6000  
6 Los Angeles, California 90017-3543  
Telephone: 213.892.5200  
7 Facsimile: 213.892.5454

8 Attorneys for Defendants  
BANC OF CALIFORNIA, INC.,  
9 BANC OF CALIFORNIA, N.A.

10  
11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF LOS ANGELES

13 JEFFREY T. SEABOLD,

14 Plaintiff,

15 v.

16 BANC OF CALIFORNIA, INC.; BANC OF  
CALIFORNIA, N.A.; and DOES 1-10,

17 Defendants.  
18  
19  
20

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

NOV 27 2017

Sherri R. Carter, Executive Officer/Clerk  
By: M. Soto, Deputy  
Moses Soto

Case No. BC674694

DEFENDANTS BANC OF  
CALIFORNIA, INC. AND BANC OF  
CALIFORNIA, N.A.'S ANSWER TO  
PLAINTIFF JEFFREY SEABOLD'S  
UNVERIFIED COMPLAINT FOR  
DAMAGES

Complaint Filed: September 5, 2017

22 Defendants Banc of California, Inc. and Banc of California, N.A. ("Banc" or  
23 "Defendants") hereby answer the allegations of Plaintiff Jeffrey T. Seabold's ("Plaintiff")  
24 unverified Complaint as follows:

25 GENERAL DENIAL  
26

27 Pursuant to California Code of Civil Procedure Section 431.30(d), Defendants deny  
28 generally each and every allegation of the Complaint in this action and, without waiving the

la-1365021

1

ANSWER TO COMPLAINT

EXB B

Exhibit S - Page 339

1 foregoing, specifically deny that Plaintiff has suffered any injury or damages of any kind  
2 attributable in any way to an act or omission of Defendants.

3 **AFFIRMATIVE DEFENSES**

4 Defendants state below the separate and independent additional defenses to the Complaint  
5 and each purported cause of action and allegation thereof. Defendants, however, do not assume  
6 the burden of proof on any such defense except as required by applicable law with respect to the  
7 particular defense asserted. Defendants reserve the right to assert additional affirmative and other  
8 defenses and otherwise to supplement this answer upon discovery of facts or evidence rendering  
9 such action appropriate.

10 **FIRST AFFIRMATIVE DEFENSE**

11 **(Failure to State a Cause of Action)**

12 As a separate and independent affirmative defense, Defendants allege that the Complaint  
13 and each purported cause of action contained therein fail to state facts sufficient to constitute a  
14 cause of action.

15 **SECOND AFFIRMATIVE DEFENSE**

16 **(Full Performance)**

17 As a separate and independent affirmative defense, Defendants allege that they performed  
18 all conditions, covenants, and promises required on their part to be performed pursuant to any  
19 agreement with Plaintiff.

20 **THIRD AFFIRMATIVE DEFENSE**

21 **(Justification)**

22 As a separate and independent affirmative defense, Defendants allege that the conduct by  
23 Defendants was fully justified or privileged and supported by good cause.

24 **FOURTH AFFIRMATIVE DEFENSE**

25 **(Breach of Contract)**

26 As a separate and independent affirmative defense, Defendants allege that the Complaint  
27 is barred due to Plaintiff's breach of contract.

28

la-1365021

2

ANSWER TO COMPLAINT

Exhibit S - Page 340

**FIFTH AFFIRMATIVE DEFENSE**

**(Good Faith)**

As a separate and independent affirmative defense, Defendants allege that they did not breach the covenant of good faith and fair dealing because at all times relevant and material herein, Defendants acted in good faith and had reasonable grounds for believing they did not violate the Employment Agreement or interfere with Plaintiff's rights thereunder.

**SIXTH AFFIRMATIVE DEFENSE**

**(Plaintiff's Other Conduct)**

As a separate and independent affirmative defense, Defendants allege that the Complaint and each purported cause of action therein are barred to the extent any alleged damages were caused by the negligence, failure to perform, or other conduct of Plaintiff.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Failure to Comply With Policies)**

As a separate and independent affirmative defense, Defendants allege that the Complaint and each purported cause of action contained therein are barred to the extent Plaintiff did not comply with Defendants' policies.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Waiver)**

As a separate and independent affirmative defense, Defendants allege that the Complaint and each cause of action contained therein are barred because Plaintiff waived any claim he had against Defendants by his actions, to the extent Plaintiff had any such claim (which Defendants deny).

**NINTH AFFIRMATIVE DEFENSE**

**(Consent)**

As a separate and independent affirmative defense, Defendants allege that the Complaint and each cause of action contained therein are barred to the extent Plaintiff consented to the alleged conduct of Defendants.

**TENTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

As a separate and independent affirmative defense, Defendants allege that the Complaint and each cause of action contained therein are barred because any conduct of Defendants that is alleged to be unlawful was taken as a result of conduct by Plaintiff, and he is thus estopped to assert any cause of action against Defendants.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

As a separate and independent affirmative defense, Defendants allege that Plaintiff's remedies are limited to the extent Plaintiff has unclean hands.

**TWELFTH AFFIRMATIVE DEFENSE**

**(All Obligations Fulfilled)**

As a separate and independent affirmative defense, Defendants allege that, to the extent that Defendants had any obligations to Plaintiff as a result of any alleged promises or statements made to Plaintiff, which Defendants deny, Defendants fulfilled any and all such obligations, except to the extent that any such obligations were excused, waived, or otherwise not legally required.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Speculative Damages)**

As a separate and independent affirmative defense, Defendants allege that the Complaint and each cause of action contained therein are barred because Plaintiff's damages, if any, are vague, uncertain, imaginary, and speculative.

**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Punitive Damages)**

As a separate and independent affirmative defense, Defendants allege that the Complaint and each and every such cause of action contained therein, fails to state facts sufficient to warrant punitive and/or exemplary damages.



**FIFTEENTH AFFIRMATIVE DEFENSE**

**(Failure to Mitigate Damages)**

As a separate and independent affirmative defense, Defendants allege that Plaintiff's damages should be reduced by the amount he could have or did earn from other employment.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(Offset)**

As a separate and independent affirmative defense, Defendants allege that any damages claimed by Plaintiff should be reduced to the extent they are subject to an offset, representing amounts improperly obtained from Defendants or which would constitute unjust enrichment of Plaintiff.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Performance Excused or Prevented)**

As a separate and independent affirmative defense, Defendants allege that the Complaint is barred by performance of duties excused or prevented.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(No Adverse Employment Action)**

As a separate and independent affirmative defense, Defendants allege that Plaintiff is barred from any recovery on the Complaint because Plaintiff resigned and was not constructively terminated, and the alleged acts about which Plaintiff complains do not constitute adverse employment actions under applicable law.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Good Cause for Adverse Action)**

As a separate and independent affirmative defense, Defendants allege even if Plaintiff was subjected to an adverse action (which Defendants deny), Plaintiff is barred from any recovery on the Complaint because any action that Plaintiff contends was an adverse action was taken for good cause.

**TWENTIETH SEPARATE AND ADDITIONAL DEFENSE**

**(Paid All Sums)**

The Complaint and the Fifth Cause of Action is barred because Plaintiff has been paid all sums due to him by virtue of his employment.

**TWENTY-FIRST SEPARATE AND ADDITIONAL DEFENSE**

**(No Penalty Award)**

Plaintiff is not entitled to any penalty award under Labor Code section 203 because at all times relevant and material herein, Defendants acted in good faith and had reasonable grounds for believing they did not violate any wage provisions of the Labor Code or the Industrial Welfare Commission Order promulgated thereunder.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(No Unfair or Unlawful Practice)**

As a separate and independent affirmative defense, Defendants allege that Plaintiff's Sixth Cause of Action is barred because Defendants have not engaged in any conduct that comes within the meaning of Business & Professions Code section 17200 et seq.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(Adequate Legal Remedy)**

As a separate and independent affirmative defense, Defendants allege that Plaintiff's Sixth Cause of Action for the purported violation of Business & Professions Code section 17200 et seq., or any cause of action seeking restitution, disgorgement, or any other form of equitable relief, is barred because Plaintiff has an adequate remedy at law, and because any harm he allegedly suffered (Defendants allege there was none) is not irreparable.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

**(No Fundamental Public Policy)**

As a separate and independent affirmative defense, Defendants allege that Plaintiff's Fourth Cause of Action is barred because it is not carefully tethered to fundamental policies that are delineated in constitutional or statutory provisions.

1 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

2 **(Unjust Enrichment)**

3 As a separate and independent affirmative defense, Defendants allege that Plaintiff would  
4 be unjustly enriched, to Defendants' detriment, if Plaintiff were awarded the damages sought  
5 under the Complaint.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Defendants pray for judgment as follows:

- 8 1. That Plaintiff take nothing by virtue of this action;  
9 2. That the Court dismiss Plaintiff's Complaint against Defendants with prejudice;  
10 3. That the Court award Defendants its reasonable expenses and costs, including but  
11 not limited to, reasonable attorneys' fees; and  
12 4. That the Court grant Defendants such other and further relief as the Court deems  
13 just and proper.

14 Dated: November 27, 2017

MORRISON & FOERSTER LLP

15  
16  
17 By: 

MARK R. MCDONALD

18 Attorneys for Defendants  
19 BANC OF CALIFORNIA, INC. AND  
20 BANC OF CALIFORNIA, N.A.  
21  
22  
23  
24  
25  
26  
27  
28

la-1365021

7

ANSWER TO COMPLAINT

Exhibit S - Page 345

1 **PROOF OF SERVICE**

2 I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address  
3 is 707 Wilshire Boulevard, Los Angeles, California 90017-3543. I am not a party to the within  
4 cause, and I am over the age of eighteen years.

5 I further declare that on November 27, 2017, I served a copy of:

6 **DEFENDANTS BANC OF CALIFORNIA, INC. AND BANC  
7 OF CALIFORNIA, N.A.'S ANSWER TO PLAINTIFF  
8 JEFFREY SEABOLD'S UNVERIFIED COMPLAINT FOR  
9 DAMAGES**

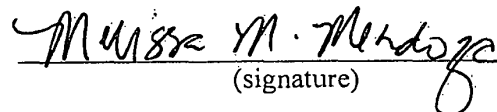
10 ☒ **BY U.S. MAIL [Code Civ. Proc sec. 1013(a)]** by placing a true copy thereof  
11 enclosed in a sealed envelope with postage thereon fully prepaid, addressed as  
12 follows, for collection and mailing at Morrison & Foerster LLP, 707 Wilshire  
13 Boulevard, Los Angeles, California 90017-3543 in accordance with Morrison &  
14 Foerster LLP's ordinary business practices. I am readily familiar with Morrison &  
15 Foerster LLP's practice for collection and processing of correspondence for mailing  
16 with the United States Postal Service, and know that in the ordinary course of  
17 Morrison & Foerster LLP's business practice the document(s) described above will be  
18 deposited with the United States Postal Service on the same date that it (they) is  
19 (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for  
20 collection and mailing.

21 James R. Asperger  
22 jimasperger@quinnemanuel.com  
23 Kristin Tahler  
24 kristintahler@quinnemanuel.com  
25 Ali Moghaddas  
26 alimoghaddas@quinnemanuel.com  
27 Quinn Emanuel Urquhart & Sullivan, LLP  
28 865 S. Figueroa Street, 10th Floor  
Los Angeles, CA 90017  
Telephone: 213-443  
Facsimile: 213-443-3100

29 I declare under penalty of perjury under the laws of the State of California that the  
30 foregoing is true and correct. Executed at Los Angeles, California, this 27<sup>th</sup> day of November  
31 2017.

32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852  
853  
854  
855  
856  
857  
858  
859  
860  
861  
862  
863  
864  
865  
866  
867  
868  
869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
879  
880  
881  
882  
883  
884  
885  
886  
887  
888  
889  
890  
891  
892  
893  
894  
895  
896  
897  
898  
899  
900  
901  
902  
903  
904  
905  
906  
907  
908  
909  
910  
911  
912  
913  
914  
915  
916  
917  
918  
919  
920  
921  
922  
923  
924  
925  
926  
927  
928  
929  
930  
931  
932  
933  
934  
935  
936  
937  
938  
939  
940  
941  
942  
943  
944  
945  
946  
947  
948  
949  
950  
951  
952  
953  
954  
955  
956  
957  
958  
959  
960  
961  
962  
963  
964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993  
994  
995  
996  
997  
998  
999  
1000

Melissa M. Mendoza  
(typed)

  
(signature)

la-1363858

PROOF OF SERVICE

Exhibit S - Page 346

## **EXHIBIT 2**

1 MARK R. MCDONALD (CA SBN 137001)  
MMcDonald@mofo.com  
2 ROBERT B. HUBBELL (CA SBN 100904)  
RHubbell@mofo.com  
3 JULIUS J. NAM (CA SBN 288961)  
JNam@mofo.com  
4 MORRISON & FOERSTER LLP  
707 Wilshire Blvd., Suite 6000  
5 Los Angeles, California 90017-3543  
Telephone: 213.892.5200  
6 Facsimile: 213.892.5454

7 Attorneys for Defendant  
BANC OF CALIFORNIA, INC.  
8

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11

12 IN RE BANC OF CALIFORNIA  
13 SECURITIES LITIGATION

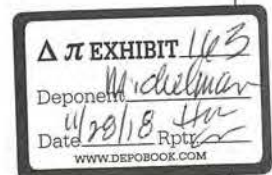
SACV 17-00118 AG (DFMx)  
consolidated with  
SACV 17-00138 AG (DFMx)

14 **DEFENDANT BANC OF**  
15 **CALIFORNIA'S RESPONSES TO**  
16 **LEAD PLAINTIFF'S SECOND**  
17 **SET OF REQUESTS FOR**  
18 **ADMISSIONS**

19  
20 PROPOUNDING PARTY: LEAD PLAINTIFF

21 RESPONDING PARTY: BANC OF CALIFORNIA, INC.

22 SET NO.: TWO  
23  
24  
25  
26  
27  
28





1 Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure,  
2 defendant Banc of California ("Banc") responds to Lead Plaintiff Iron Workers  
3 Local No. 25 Pension Fund's ("Plaintiff") Second Set of Requests for Admissions  
4 (the "Requests") as follows:

5 **PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

6 Banc makes the following General Objections to Plaintiffs' Requests, which  
7 apply to each Request therein regardless of whether a General Objection is  
8 specifically incorporated into a response to a particular Request.

9 1. Banc objects to each Request to the extent it seeks information that is  
10 more efficiently and appropriately obtained through some other form of discovery.

11 2. Banc objects to the Requests to the extent they request information not  
12 relevant to a claim or defense in this action or are not reasonably calculated to lead  
13 to the discovery of admissible evidence.

14 3. Nothing in these responses is an admission by Banc of the relevance or  
15 admissibility of any information provided in response to these Requests. Banc  
16 reserves all objections and other questions as to competency, relevance, materiality,  
17 privilege, or admissibility related to the use of its responses and any document or  
18 thing identified in connection with its responses as evidence for any purpose  
19 whatsoever in any subsequent proceeding in this trial or any other action.

20 4. Banc's discovery and investigation in connection with this litigation  
21 are continuing. As a result, Banc's responses are limited to information obtained to  
22 date, and are given without prejudice to Banc's right to amend or supplement its  
23 responses after considering information obtained through further discovery or  
24 investigation.

25 5. Banc objects to each Request to the extent it seeks information already  
26 in Plaintiffs' possession or available to Plaintiffs from public sources for which the  
27 burden of obtaining such information is the same or less for Plaintiffs as it is for  
28 Banc.



1           6. To the extent the Requests may be construed as calling for the  
2 disclosure of information subject to the attorney-client privilege, work product  
3 immunity, joint defense or common interest privilege or any other applicable  
4 protection from discovery, Banc hereby claims such privileges and immunities and  
5 objects to any Requests on such grounds. Banc does not waive, intentionally or  
6 otherwise, any attorney-client privilege, work product immunity, joint defense or  
7 common interest privilege or any other privilege, immunity, or other protection that  
8 may be asserted to protect any information from disclosure.

9           7. Banc objects to each Request to the extent it is overbroad, unduly  
10 burdensome, and not proportional to the needs of the case.

11                   **RESPONSES TO REQUESTS FOR ADMISSIONS**

12           **REQUEST FOR ADMISSION NO. 13:**

13           Admit that Mark R. McDonald, Esq. drafted and signed the McDonald Letter  
14 on behalf of Banc.

15           **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

16           Banc incorporates by reference its Preliminary Statement and General  
17 Objections. Banc objects to this Request on the grounds that it seeks information  
18 that is not relevant to any party's claim or defense, especially given the narrow  
19 scope of what remains of Plaintiff's complaint. Banc further objects that the term  
20 "draft" is vague and ambiguous.

21           Subject to the foregoing objections but without waiving them, Banc responds  
22 as follows: admit.

23           **REQUEST FOR ADMISSION NO. 14:**

24           Admit that the McDonald Letter was sent to Sugarman on or around January  
25 22, 2017.

26           **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

27           Banc incorporates by reference its Preliminary Statement and General  
28 Objections. Banc objects to this Request on the grounds that it seeks information

1 that is not relevant to any party's claim or defense, especially given the narrow  
2 scope of what remains of Plaintiff's complaint.

3 Subject to the foregoing objections but without waiving them, Banc responds  
4 as follows: Banc admits that the letter was sent to Sugarman's counsel, Manuel  
5 Abascal, on January 22, 2017.

6 **REQUEST FOR ADMISSION NO. 15:**

7 Admit that Banc reviewed the contents of the McDonald Letter before it was  
8 sent to Sugarman.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

10 Banc incorporates by reference its Preliminary Statement and General  
11 Objections. Banc objects to this Request on the grounds that it seeks information  
12 that is not relevant to any party's claim or defense, especially given the narrow  
13 scope of what remains of Plaintiff's complaint. Banc further objects to this Request  
14 on the grounds that it is vague and ambiguous regarding how Banc, an entity, can  
15 review a document.

16 Subject to the foregoing objections but without waiving them, Banc responds  
17 as follows: Banc admits that one or more directors or officers of Banc were  
18 provided the contents of the McDonald Letter before it was sent to Sugarman's  
19 counsel, Manuel Abascal.

20 **REQUEST FOR ADMISSION NO. 16:**

21 Admit that, on or around January 11, 2018, the Seabold Answer was filed on  
22 behalf of Banc in the *Seabold* Action.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

24 Banc incorporates by reference its Preliminary Statement and General  
25 Objections. Banc objects to this Request on the grounds that it seeks information  
26 that is not relevant to any party's claim or defense, especially given the narrow  
27 scope of what remains of Plaintiff's complaint.

28 Subject to the foregoing objections but without waiving them, Banc responds



1 as follows: Banc admits that it filed the proposed amended answer as Exhibit A to  
2 the declaration of Mark McDonald in the *Seabold* Action on January 11, 2018.

3 **REQUEST FOR ADMISSION NO. 17:**

4 Admit that Banc reviewed the contents of the Seabold Answer before it was  
5 filed in the *Seabold* Action.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

7 Banc incorporates by reference its Preliminary Statement and General  
8 Objections. Banc objects to this Request on the grounds that it seeks information  
9 that is not relevant to any party's claim or defense, especially given the narrow  
10 scope of what remains of Plaintiff's complaint. Banc further objects to this Request  
11 on the grounds that it is vague and ambiguous regarding how an entity can review a  
12 document.

13 Subject to the foregoing objections but without waiving them, Banc responds  
14 as follows: Banc admits that one or more directors or officers of Banc reviewed the  
15 proposed amended answer before it was filed as Exhibit A to the declaration of  
16 Mark McDonald in the *Seabold* Action on January 11, 2018.

17 **REQUEST FOR ADMISSION NO. 18:**

18 Admit that Sugarman "was almost solely responsible" for the decision to  
19 issue the October Press Release and its contents, BOC\_000065373-76 at 74.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

21 Banc incorporates by reference its Preliminary Statement and General  
22 Objections. Banc objects to this Request on the grounds that it seeks information  
23 that is not relevant to any party's claim or defense, especially given the narrow  
24 scope of what remains of Plaintiff's complaint. Banc further objects that the  
25 Request is compound to the extent it seeks an admission of multiple distinct facts.

26 Subject to the foregoing objections but without waiving them, Banc responds  
27 as follows: Banc admits that Sugarman was almost solely responsible for the  
28 decision to issue the October 18, 2018 press release and for its contents.

1 **REQUEST FOR ADMISSION NO. 19:**

2 Admit that Banc possesses documents and/or communications demonstrating  
3 that Sugarman "was almost solely responsible" for the decision to issue the October  
4 Press Release and its contents. *Id.*

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

6 Banc incorporates by reference its Preliminary Statement and General  
7 Objections. Banc objects to this Request on the grounds that it seeks information  
8 that is not relevant to any party's claim or defense, especially given the narrow  
9 scope of what remains of Plaintiff's complaint. Banc further objects that the  
10 Request is compound to the extent it seeks an admission of multiple distinct facts.  
11 Banc further objects that the concept of possessing a communication is vague and  
12 ambiguous. Banc further objects that this Request calls for a legal conclusion.

13 Subject to the foregoing objections but without waiving them, Banc responds  
14 as follows: Banc admits that there are documents and witnesses with knowledge  
15 relevant to whether Sugarman was almost solely responsible for the decision to  
16 issue the October 18, 2016 press release and for its contents.

17 **REQUEST FOR ADMISSION NO. 20:**

18 Admit that the October Press Release "contained several inaccurate  
19 statements." *Id.*

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

21 Banc incorporates by reference its Preliminary Statement and General  
22 Objections. Banc objects to this Request on the grounds that it seeks information  
23 that is not relevant to any party's claim or defense, especially given the narrow  
24 scope of what remains of Plaintiff's complaint.

25 Subject to the foregoing objections but without waiving them, Banc responds  
26 as follows: Banc admits that the October 18, 2016 press release contained several  
27 inaccurate statements that were not material.



1 **REQUEST FOR ADMISSION NO. 21:**

2 Admit that the investigation conducted by Winston & Strawn “was not  
3 initiated by the Board of Directors or any subset of the Board” but rather it was  
4 “directed” by Sugarman. *Id.*

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

6 Banc incorporates by reference its Preliminary Statement and General  
7 Objections. Banc objects to this Request on the grounds that it seeks information  
8 that is not relevant to any party’s claim or defense, especially given the narrow  
9 scope of what remains of Plaintiff’s complaint. Banc further objects that the  
10 Request is compound to the extent it seeks an admission of multiple distinct facts.

11 Subject to the foregoing objections but without waiving them, Banc responds  
12 as follows: Banc admits that the Winston & Strawn investigation was not initiated  
13 by the Board of Directors or any subset of the Board; rather, it was directed by Mr.  
14 Sugarman.

15 **REQUEST FOR ADMISSION NO. 22:**

16 Admit that Banc possesses documents and/or communications demonstrating  
17 that the investigation conducted by Winston & Strawn “was not initiated by the  
18 Board of Directors or any subset of the Board” but rather it was “directed” by  
19 Sugarman. *Id.*

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

21 Banc incorporates by reference its Preliminary Statement and General  
22 Objections. Banc objects to this Request on the grounds that it seeks information  
23 that is not relevant to any party’s claim or defense, especially given the narrow  
24 scope of what remains of Plaintiff’s complaint. Banc further objects that the  
25 concept of possessing a communication is vague and ambiguous. Banc further  
26 objects that the Request is compound to the extent it seeks an admission of multiple  
27 distinct facts. Banc further objects that this Request calls for a legal conclusion.

28 Subject to the foregoing objections but without waiving them, Banc responds

1 as follows: Banc admits that there are documents and witnesses with knowledge  
2 relevant to whether the Winston & Strawn investigation was initiated by the Board  
3 of Directors or any subset thereof, and whether it was directed by Mr. Sugarman.

4 **REQUEST FOR ADMISSION NO. 23:**

5 Admit that the October Press Release “overstated both the degree to which  
6 the Company had been in contact with regulatory agencies” about the subject  
7 matter referenced in the Article “as well as the involvement of the directors in  
8 oversight or direction of the inquiry.” *Id.*

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

10 Banc incorporates by reference its Preliminary Statement and General  
11 Objections. Banc objects to this Request on the grounds that it seeks information  
12 that is not relevant to any party’s claim or defense, especially given the narrow  
13 scope of what remains of Plaintiff’s complaint. Banc further objects that the  
14 Request is compound to the extent it seeks an admission of multiple distinct facts.

15 Subject to the foregoing objections but without waiving them, Banc responds  
16 as follows: Banc admits that the October 18, 2016 press release overstated both the  
17 degree to which the Company had been in contact with regulatory agencies about  
18 the subject matter referenced in the blog post as well as the involvement of the  
19 directors in oversight or direction of the inquiry.

20 **REQUEST FOR ADMISSION NO. 24:**

21 Admit that Sugarman knew that the October Press Release contained  
22 inaccurate statements.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

24 Banc incorporates by reference its Preliminary Statement and General  
25 Objections. Banc objects to this Request on the grounds that it seeks information  
26 that is not relevant to any party’s claim or defense, especially given the narrow  
27 scope of what remains of Plaintiff’s complaint. Banc further objects to this Request  
28 on the ground that it seeks information that is outside Banc’s custody or control.



1 Subject to the foregoing objections but without waiving them, Banc responds  
2 as follows: Banc admits that it believes that Sugarman knew the October 18, 2016  
3 press release contained inaccurate statements.

4 **REQUEST FOR ADMISSION NO. 25:**

5 Admit that Banc possesses documents and/or communications demonstrating  
6 that Sugarman knew that the October Press Release contained inaccurate  
7 statements.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

9 Banc incorporates by reference its Preliminary Statement and General  
10 Objections. Banc objects to this Request on the grounds that it seeks information  
11 that is not relevant to any party's claim or defense, especially given the narrow  
12 scope of what remains of Plaintiff's complaint. Banc further objects that the  
13 concept of possessing a communication is vague and ambiguous. Banc further  
14 objects that this Request calls for a legal conclusion.

15 Subject to the foregoing objections but without waiving them, Banc responds  
16 as follows: Banc admits that there are documents and witnesses with knowledge  
17 relevant to whether Sugarman knew that certain statements in the October 18, 2016  
18 press release were false.

19 **REQUEST FOR ADMISSION NO. 26:**

20 Admit that Sugarman ordered the issuance of the October Press Release.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

22 Banc incorporates by reference its Preliminary Statement and General  
23 Objections. Banc objects to this Request on the grounds that it is overbroad and  
24 seeks information that is not relevant to any party's claim or defense, especially  
25 given the narrow scope of what remains of Plaintiff's complaint.

26 Subject to the foregoing objections but without waiving them, Banc responds  
27 as follows: Banc admits that Sugarman ordered the issuance of the October 18,  
28 2016 press release.



1 **REQUEST FOR ADMISSION NO. 27:**

2 Admit that Banc possesses documents and/or communications demonstrating  
3 that Sugarman ordered the issuance of the October Press Release.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

5 Banc incorporates by reference its Preliminary Statement and General  
6 Objections. Banc objects to this Request on the grounds that it is overbroad and  
7 seeks information that is not relevant to any party's claim or defense, especially  
8 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
9 objects that the concept of possessing a communication is vague and ambiguous.  
10 Banc further objects that this Request calls for a legal conclusion.

11 Subject to the foregoing objections but without waiving them, Banc responds  
12 as follows: Banc admits that there are documents and witnesses with knowledge  
13 relevant to whether Sugarman ordered the issuance of the October 18, 2016 press  
14 release.

15 **REQUEST FOR ADMISSION NO. 28:**

16 Admit that Sugarman "improperly resisted and attempted to prevent the  
17 formation of a Special Committee and, once the Special Committee was formed, he  
18 interfered with and delayed the Special Committee's investigation." *Id.*

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

20 Banc incorporates by reference its Preliminary Statement and General  
21 Objections. Banc objects to this Request on the grounds that it is overbroad and  
22 seeks information that is not relevant to any party's claim or defense, especially  
23 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
24 objects that the Request is compound to the extent it seeks an admission of multiple  
25 distinct facts.

26 Subject to the foregoing objections but without waiving them, Banc responds  
27 as follows: Banc admits that Sugarman improperly resisted and attempted to  
28 prevent the formation of a Special Committee and, once the Special Committee was

1 formed, he interfered with and delayed the Special Committee's investigation.

2 **REQUEST FOR ADMISSION NO. 29:**

3 Admit that Banc possesses documents and/or communications demonstrating  
4 that Sugarman "improperly resisted and attempted to prevent the formation of a  
5 Special Committee and, once the Special Committee was formed, he interfered with  
6 and delayed the Special Committee's investigation." *Id.*

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

8 Banc incorporates by reference its Preliminary Statement and General  
9 Objections. Banc objects to this Request on the grounds that it is overbroad and  
10 seeks information that is not relevant to any party's claim or defense, especially  
11 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
12 objects that the Request is compound to the extent it seeks an admission of multiple  
13 distinct facts. Banc further objects that this Request calls for a legal conclusion.

14 Subject to the foregoing objections but without waiving them, Banc responds  
15 as follows: Banc admits that there are documents and witnesses with knowledge  
16 relevant to whether Sugarman improperly resisted and attempted to prevent the  
17 formation of a Special Committee and, once the Special Committee was formed,  
18 interfered with and delayed the Special Committee's investigation.

19 **REQUEST FOR ADMISSION NO. 30:**

20 Admit that Sugarman "provided inaccurate information to the Special  
21 Committee." BOC\_000065373-76 at 74-75.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

23 Banc incorporates by reference its Preliminary Statement and General  
24 Objections. Banc objects to this Request on the grounds that it is overbroad and  
25 seeks information that is not relevant to any party's claim or defense, especially  
26 given the narrow scope of what remains of Plaintiff's complaint.

27 Subject to the foregoing objections but without waiving them, Banc responds  
28 as follows: Banc admits that Sugarman provided inaccurate information to the



1 Special Committee.

2 **REQUEST FOR ADMISSION NO. 31:**

3 Admit that Banc possesses documents and/or communications demonstrating  
4 that Sugarman “provided inaccurate information to the Special Committee.” *Id.*

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

6 Banc incorporates by reference its Preliminary Statement and General  
7 Objections. Banc objects to this Request on the grounds that it is overbroad and  
8 seeks information that is not relevant to any party’s claim or defense, especially  
9 given the narrow scope of what remains of Plaintiff’s complaint. Banc further  
10 objects that the concept of possessing a communication is vague and ambiguous.  
11 Banc further objects that this Request calls for a legal conclusion.

12 Subject to the foregoing objections but without waiving them, Banc responds  
13 as follows: Banc admits that there are documents and witnesses with knowledge  
14 relevant to whether Sugarman provided inaccurate information to the Special  
15 Committee.

16 **REQUEST FOR ADMISSION NO. 32:**

17 Admit that Sugarman “raised – before later abandoning – a number of  
18 baseless objections to his turning over to the Special Committee his Bank issued  
19 devises, which delayed the Committee’s review of those devices by weeks.”  
20 BOC\_000065373-76 at 75.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 32:**

22 Banc incorporates by reference its Preliminary Statement and General  
23 Objections. Banc objects to this Request on the grounds that it is overbroad and  
24 seeks information that is not relevant to any party’s claim or defense, especially  
25 given the narrow scope of what remains of Plaintiff’s complaint. Banc further  
26 objects that the Request is compound to the extent it seeks an admission of multiple  
27 distinct facts.

28 Subject to the foregoing objections but without waiving them, Banc responds

1 as follows: Banc admits that Sugarman raised – before later abandoning – a number  
2 of baseless objections to his turning over to the Special Committee his Bank issued  
3 devices, which delayed the Committee’s review of those devices by weeks.

4 **REQUEST FOR ADMISSION NO. 33:**

5 Admit that Banc possesses documents and/or communications demonstrating  
6 that Sugarman “raised – before later abandoning – a number of baseless objections  
7 to his turning over to the Special Committee his Bank issued devices, which  
8 delayed the Committee’s review of those devices by weeks.” *Id.*

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 33:**

10 Banc incorporates by reference its Preliminary Statement and General  
11 Objections. Banc objects to this Request on the grounds that it is overbroad and  
12 seeks information that is not relevant to any party’s claim or defense, especially  
13 given the narrow scope of what remains of Plaintiff’s complaint. Banc further  
14 objects that the concept of possessing a communication is vague and ambiguous.  
15 Banc further objects that the Request is compound to the extent it seeks an  
16 admission of multiple distinct facts.

17 Subject to the foregoing objections but without waiving them, Banc responds  
18 as follows: Banc admits that there are documents and witnesses with knowledge  
19 relevant to whether Sugarman raised – before later abandoning – a number of  
20 baseless objections to his turning over to the Special Committee his Bank issued  
21 devices and whether that delayed the Committee’s review of those devices by  
22 weeks.

23 **REQUEST FOR ADMISSION NO. 34:**

24 Admit that Sugarman “was responsible for the positions taken” by Sanford  
25 Michelman “who took a number of adversarial positions, purportedly on behalf of  
26 the Bank, in response to the Special Committee’s requests for documents from the  
27 Bank.” *Id.*



1 **RESPONSE TO REQUEST FOR ADMISSION NO. 34:**

2 Banc incorporates by reference its Preliminary Statement and General  
3 Objections. Banc objects to this Request on the grounds that it is overbroad and  
4 seeks information that is not relevant to any party's claim or defense, especially  
5 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
6 objects that the Request is compound to the extent it seeks an admission of multiple  
7 distinct facts.

8 Subject to the foregoing objections but without waiving them, Banc responds  
9 as follows: Banc admits that it concluded that Sugarman was responsible for the  
10 positions taken by Sanford Michelman, an attorney with Michelman & Robinson,  
11 who took a number of adversarial positions, purportedly on behalf of the Bank, in  
12 response to the Special Committee's requests for documents from the Bank.

13 **REQUEST FOR ADMISSION NO. 35:**

14 Admit that Banc possesses documents and/or communications demonstrating  
15 that Sugarman "was responsible for the positions taken" by Sanford Michelman  
16 "who took a number of adversarial positions, purportedly on behalf of the Bank, in  
17 response to the Special Committee's requests for documents from the Bank." *Id.*

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 35:**

19 Banc incorporates by reference its Preliminary Statement and General  
20 Objections. Banc objects to this Request on the grounds that it is overbroad and  
21 seeks information that is not relevant to any party's claim or defense, especially  
22 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
23 objects that the concept of possessing a communication is vague and ambiguous.  
24 Banc further objects that the Request is compound to the extent it seeks an  
25 admission of multiple distinct facts. Banc further objects that this Request calls for  
26 a legal conclusion.

27 Subject to the foregoing objections but without waiving them, Banc responds  
28 as follows: Banc admits that there are documents and witnesses with knowledge

1 relevant to whether Sugarman was responsible for the positions taken by Sanford  
2 Michelman.

3 **REQUEST FOR ADMISSION NO. 36:**

4 Admit that Sugarman “caused a long delay in the production of materials  
5 requested by the Special Committee” that Sugarman “claimed were in the sole  
6 possession, custody and control of the COR entities.” *Id.*

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 36:**

8 Banc incorporates by reference its Preliminary Statement and General  
9 Objections. Banc objects to this Request on the grounds that it is overbroad and  
10 seeks information that is not relevant to any party’s claim or defense, especially  
11 given the narrow scope of what remains of Plaintiff’s complaint. Banc further  
12 objects that the Request is compound to the extent it seeks an admission of multiple  
13 distinct facts.

14 Subject to the foregoing objections but without waiving them, Banc responds  
15 as follows: Banc admits that Sugarman caused a long delay in the production of  
16 materials requested by the Special Committee that Sugarman claimed were in the  
17 sole possession, custody and control of the COR entities.

18 **REQUEST FOR ADMISSION NO. 37:**

19 Admit that Banc possesses documents and/or communications demonstrating  
20 that Sugarman “caused a long delay in the production of materials requested by the  
21 Special Committee” that Sugarman “claimed were in the sole possession, custody  
22 and control of the COR entities.” *Id.*

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 37:**

24 Banc incorporates by reference its Preliminary Statement and General  
25 Objections. Banc objects to this Request on the grounds that it is overbroad and  
26 seeks information that is not relevant to any party’s claim or defense, especially  
27 given the narrow scope of what remains of Plaintiff’s complaint. Banc further  
28 objects that the concept of possessing a communication is vague and ambiguous.



1 Banc further objects that the Request is compound to the extent it seeks an  
2 admission of multiple distinct facts. Banc further objects that this Request calls for  
3 a legal conclusion.

4 Subject to the foregoing objections but without waiving them, Banc responds  
5 as follows: Banc admits that there are documents and witnesses with knowledge  
6 relevant to whether Sugarman caused a long delay in the production of materials  
7 requested by the Special Committee that Sugarman claimed were in the sole  
8 possession, custody and control of the COR entities.

9 **REQUEST FOR ADMISSION NO. 38:**

10 Admit that Sugarman “facilitated Winston & Strawn’s access to documents  
11 at COR” and “provided no such assistance when the Special Committee sought  
12 access to documents.” *Id.*

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 38:**

14 Banc incorporates by reference its Preliminary Statement and General  
15 Objections. Banc objects to this Request on the grounds that it is overbroad and  
16 seeks information that is not relevant to any party’s claim or defense, especially  
17 given the narrow scope of what remains of Plaintiff’s complaint. Banc further  
18 objects that the Request is compound to the extent it seeks an admission of multiple  
19 distinct facts.

20 Subject to the foregoing objections but without waiving them, Banc responds  
21 as follows: Banc admits that Sugarman facilitated Winston & Strawn’s access to  
22 documents at COR and provided no such assistance when the Special Committee  
23 sought access to documents.

24 **REQUEST FOR ADMISSION NO. 39:**

25 Admit that Banc possesses documents and/or communications demonstrating  
26 that Sugarman “facilitated Winston & Strawn’s access to documents at COR” and  
27 “provided no such assistance when the Special Committee sought access to  
28 documents.” *Id.*



1 **RESPONSE TO REQUEST FOR ADMISSION NO. 39:**

2 Banc incorporates by reference its Preliminary Statement and General  
3 Objections. Banc objects to this Request on the grounds that it is overbroad and  
4 seeks information that is not relevant to any party's claim or defense, especially  
5 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
6 objects that the Request is compound to the extent it seeks an admission of multiple  
7 distinct facts. Banc further objects that this Request calls for a legal conclusion.

8 Subject to the foregoing objections but without waiving them, Banc responds  
9 as follows: Banc admits that there are documents and witnesses with knowledge  
10 relevant to whether Sugarman facilitated Winston & Strawn's access to documents  
11 at COR and provided no such assistance when the Special Committee sought access  
12 to documents.

13 **REQUEST FOR ADMISSION NO. 40:**

14 Admit that, as of the date of the McDonald Letter, Banc concluded that  
15 Sugarman "was responsible for, or at least involved in, the decision to have outside  
16 counsel for COR object for weeks to production of documents, before finally  
17 agreeing to allow access to the documents." *Id.*

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 40:**

19 Banc incorporates by reference its Preliminary Statement and General  
20 Objections. Banc objects to this Request on the grounds that it is overbroad and  
21 seeks information that is not relevant to any party's claim or defense, especially  
22 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
23 objects that the Request is compound to the extent it seeks an admission of multiple  
24 distinct facts.

25 Subject to the foregoing objections but without waiving them, Banc responds  
26 as follows: Banc admits that as of the date of the McDonald Letter, Banc had  
27 concluded that Sugarman was responsible for, or at least involved in, the decision  
28 to have outside counsel for COR object for weeks to production of documents,

1 before finally agreeing to allow access to the documents.

2 **REQUEST FOR ADMISSION NO. 41:**

3 Admit that Banc possesses documents and/or communications demonstrating  
4 that, as of the date of the McDonald Letter, Banc concluded that Sugarman “was  
5 responsible for, or at least involved in, the decision to have outside counsel for  
6 COR object for weeks to production of documents, before finally agreeing to allow  
7 access to the documents.” *Id.*

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 41:**

9 Banc incorporates by reference its Preliminary Statement and General  
10 Objections. Banc objects to this Request on the grounds that it is overbroad and  
11 seeks information that is not relevant to any party’s claim or defense, especially  
12 given the narrow scope of what remains of Plaintiff’s complaint. Banc further  
13 objects that the concept of possessing a communication is vague and ambiguous.  
14 Banc further objects that the Request is compound to the extent it seeks an  
15 admission of multiple distinct facts. Banc further objects that this Request calls for  
16 a legal conclusion.

17 Subject to the foregoing objections but without waiving them, Banc responds  
18 as follows: Banc admits that there are documents and witnesses with knowledge  
19 relevant to whether, as of the date of the McDonald Letter, Banc concluded that  
20 Sugarman was responsible for, or at least involved in, the decision to have outside  
21 counsel for COR object for weeks to production of documents, before finally  
22 agreeing to allow access to the documents.

23 **REQUEST FOR ADMISSION NO. 42:**

24 Admit that “Sugarman took actions that delayed completion for the Special  
25 Committee’s investigation.” *Id.*

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 42:**

27 Banc incorporates by reference its Preliminary Statement and General  
28 Objections. Banc objects to this Request on the grounds that it is overbroad and



1 seeks information that is not relevant to any party's claim or defense, especially  
2 given the narrow scope of what remains of Plaintiff's complaint.

3 Subject to the foregoing objections but without waiving them, Banc responds  
4 as follows: Banc admits that Sugarman took actions that delayed completion for the  
5 Special Committee's investigation.

6 **REQUEST FOR ADMISSION NO. 43:**

7 Admit that Banc possesses documents and/or communications demonstrating  
8 that "Sugarman took actions that delayed completion for the Special Committee's  
9 investigation." *Id.*

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 43:**

11 Banc incorporates by reference its Preliminary Statement and General  
12 Objections. Banc objects to this Request on the grounds that it is overbroad and  
13 seeks information that is not relevant to any party's claim or defense, especially  
14 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
15 objects that the concept of possessing a communication is vague and ambiguous.  
16 Banc further objects that this Request calls for a legal conclusion.

17 Subject to the foregoing objections but without waiving them, Banc responds  
18 as follows: Banc admits that there are documents and witnesses with knowledge  
19 relevant to whether Sugarman took actions that delayed completion for the Special  
20 Committee's investigation.

21 **REQUEST FOR ADMISSION NO. 44:**

22 Admit that Sugarman "interfered with directors having direct communication  
23 with officers of the Company and Bank specifically contrary to the Company's  
24 Corporate Governance Guidelines, and indicated to officers that it could be a  
25 violation of law if there were direct communication between directors and officers."  
26 BOC\_000065373-76 at 75-76.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 44:**

28 Banc incorporates by reference its Preliminary Statement and General

1 Objections. Banc objects to this Request on the grounds that it is overbroad and  
2 seeks information that is not relevant to any party's claim or defense, especially  
3 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
4 objects that the Request is compound to the extent it seeks an admission of multiple  
5 distinct facts.

6 Subject to the foregoing objections but without waiving them, Banc responds  
7 as follows: Banc admits that Sugarman interfered with directors having direct  
8 communication with officers of the Company and Bank specifically contrary to the  
9 Company's Corporate Governance Guidelines, and indicated to officers that it  
10 could be a violation of law if there were direct communication between directors  
11 and officers.

12 **REQUEST FOR ADMISSION NO. 45:**

13 Admit that Banc possesses documents and/or communications demonstrating  
14 that Sugarman "interfered with directors having direct communication with officers  
15 of the Company and Bank specifically contrary to the Company's Corporate  
16 Governance Guidelines, and indicated to officers that it could be a violation of law  
17 if there were direct communication between directors and officers." *Id.*

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 45:**

19 Banc incorporates by reference its Preliminary Statement and General  
20 Objections. Banc objects to this Request on the grounds that it is overbroad and  
21 seeks information that is not relevant to any party's claim or defense, especially  
22 given the narrow scope of what remains of Plaintiff's complaint. Banc further  
23 objects that the concept of possessing a communication is vague and ambiguous.  
24 Banc further objects that the Request is compound to the extent it seeks an  
25 admission of multiple distinct facts. Banc further objects that this Request calls for  
26 a legal conclusion.

27 Subject to the foregoing objections but without waiving them, Banc responds  
28 as follows: Banc admits that there are documents and witnesses with knowledge



1 relevant to whether Sugarman interfered with directors having direct  
2 communication with officers of the Company and Bank specifically contrary to the  
3 Company's Corporate Governance Guidelines, and indicated to officers that it  
4 could be a violation of law if there were direct communication between directors  
5 and officers.

6 **REQUEST FOR ADMISSION NO. 46:**

7 Admit that, as of the date of the McDonald Letter, there were "numerous  
8 witnesses who would provide testimony and evidence supporting a for Cause  
9 termination" of Sugarman. BOC\_000065373-76 at 76.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 46:**

11 Banc incorporates by reference its Preliminary Statement and General  
12 Objections. Banc objects to this Request on the grounds that it is overbroad and  
13 seeks information that is not relevant to any party's claim or defense, especially  
14 given the narrow scope of what remains of Plaintiff's complaint.

15 Subject to the foregoing objections but without waiving them, Banc responds  
16 as follows: Banc admits that as of January 22, 2017, there would have been  
17 numerous witnesses who would provide testimony and evidence supporting a for  
18 Cause termination.

19 **REQUEST FOR ADMISSION NO. 47:**

20 Admit that Banc possesses documents and/or communications demonstrating  
21 that, as of the date of the McDonald Letter, there were "numerous witnesses who  
22 would provide testimony and evidence supporting a for Cause termination" of  
23 Sugarman. *Id.*

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 47:**

25 Banc incorporates by reference its Preliminary Statement and General  
26 Objections. Banc objects to this Request on the grounds that it is overbroad and  
27 seeks information that is not relevant to any party's claim or defense, especially  
28 given the narrow scope of what remains of Plaintiff's complaint. Banc further

1 objects that the concept of possessing a communication is vague and ambiguous.  
2 Banc further objects that this Request calls for a legal conclusion.

3 Subject to the foregoing objections but without waiving them, Banc responds  
4 as follows: Banc admits that there are documents and witnesses with knowledge  
5 relevant to whether, as of the date of the McDonald Letter, there were "numerous  
6 witnesses who would provide testimony and evidence supporting a for Cause  
7 termination" of Sugarman.

8 **REQUEST FOR ADMISSION NO. 48:**

9 Admit that prior to October 18, 2016, Banc never mentioned and/or  
10 referenced Galanis in a published press release or publicly filed document.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 48:**

12 Banc incorporates by reference its Preliminary Statement and General  
13 Objections. Banc objects to this Request on the grounds that it is overbroad and  
14 seeks information that is not relevant to any party's claim or defense, especially  
15 given the narrow scope of what remains of Plaintiff's complaint.

16 Subject to the foregoing objections but without waiving them, Banc responds  
17 as follows: admit.

18  
19  
20 Dated: October 11, 2018

MORRISON & FOERSTER LLP

21  
22 /s/Mark R. McDonald

23 MARK R. MCDONALD

24 Attorneys for Defendant  
25 BANC OF CALIFORNIA, INC.  
26  
27  
28



**PROOF OF SERVICE**

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 707 Wilshire Boulevard, Los Angeles, California 90017-3543. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on October 11, 2018, I served a copy of:

**DEFENDANT BANC OF CALIFORNIA'S  
RESPONSES TO LEAD PLAINTIFF'S SECOND  
SET OF REQUESTS FOR ADMISSIONS**

☒ **BY ELECTRONIC SERVICE [Code Civ. Proc sec. 1010.6; CRC 2.251]** by electronically mailing a true and correct copy through Morrison & Foerster LLP's electronic mail system to the email address(es) set forth below, or as stated on the attached service list.

Laurie L. Largent  
Matthew I. Alpert  
ROBBINS GELLER RUDMAN  
& DOWD LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
Facsimile: 619/231-7423  
[LLargent@rgrdlaw.com](mailto:LLargent@rgrdlaw.com)  
[MApert@rgrdlaw.com](mailto:MApert@rgrdlaw.com)  
[EOliver@rgrdlaw.com](mailto:EOliver@rgrdlaw.com)  
[NHorstman@rgdlaw.com](mailto:NHorstman@rgdlaw.com)

Manny A. Abascal  
LATHAM & WATKINS LLP  
355 South Grand Avenue, Suite  
100  
Los Angeles, CA 90071-1560  
[Manny.Abasal@lw.com](mailto:Manny.Abasal@lw.com)  
[Kristen.Tuey@lw.com](mailto:Kristen.Tuey@lw.com)  
[brian.glennon@lw.com](mailto:brian.glennon@lw.com)  
[john.eastly@lw.com](mailto:john.eastly@lw.com)

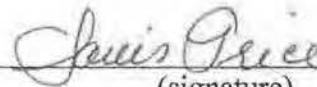
*Attorneys for Defendant  
Steven A. Sugarman*

*Lead Counsel for Plaintiff*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Los Angeles, California, this 11th day of October, 2018.

Janis Price  
(typed)

  
(signature)



## **EXHIBIT 3**

1 ROBBINS GELLER RUDMAN  
& DOWD LLP  
2 SPENCER A. BURKHOLZ (147029)  
LAURIE L. LARGENT (153493)  
3 ROBERT R. HENSSLER JR. (216165)  
MATTHEW I. ALPERT (238024)  
4 ERIKA OLIVER (306614)  
655 West Broadway, Suite 1900  
5 San Diego, CA 92101  
Telephone: 619/231-1058  
6 619/231-7423 (fax)  
spenceb@rgrdlaw.com  
7 llargent@rgrdlaw.com  
bhenssler@rgrdlaw.com  
8 malpert@rgrdlaw.com  
eoliver@rgrdlaw.com

9 Lead Counsel for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 SOUTHERN DIVISION

13 In re BANC OF CALIFORNIA  
14 SECURITIES LITIGATION

) No. SACV 17-00118 AG (DFMx)  
) consolidated with  
) SACV 17-00138 AG (DFMx)

15  
16 This Document Relates To:

) CLASS ACTION

17 ALL ACTIONS.  
18

) LEAD PLAINTIFF IRON WORKERS  
) LOCAL NO. 25 PENSION FUND'S  
) AMENDED RESPONSES TO  
) DEFENDANT STEVEN A.  
) SUGARMAN'S FIRST SET OF  
) REQUESTS FOR ADMISSION TO  
) LEAD PLAINTIFF NUMBERS 13-14,  
) 16 AND 23

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure and the Local Civil Rules of the United States District Court for the Central District of California (the “Local Civil Rules”), Lead Plaintiff Iron Workers Local No. 25 Pension Fund (“Lead Plaintiff” or “Iron Workers”), by and through its counsel of record, hereby submits its amended responses and objections to Defendant Steven A. Sugarman’s (“Sugarman”) First Set of Requests for Admission to Lead Plaintiff Numbers 13-14, 16 and 23 dated December 14, 2018 (“Requests”) as follows:

**I. GENERAL OBJECTIONS**

1. Plaintiff incorporates by reference the General Objections as set forth in its initial response to the Requests.

2. Plaintiff reserves its rights to supplement its Objections and Responses based on depositions that have not yet occurred or to the extent Sugarman interprets the scope of any Request to be different from that which Plaintiff has set forth herein.

**II. SPECIFIC OBJECTIONS AND RESPONSES**

REQUEST FOR ADMISSION NO. 13:

Admit that there were no ties between GALANIS and MR. SUGARMAN at the time of the alleged omission from MR. SUGARMAN’S biography in the April 2016 Proxy Statement.

RESPONSE TO REQUEST FOR ADMISSION NO. 13:

Plaintiff incorporates each and every General Objection and Objections made to Request No. 13 as set forth in its initial response to the Requests. Plaintiff objects to the term “ties” as undefined and subject to multiple interpretations.

Subject to and without waiving the foregoing objections, and based on its understanding of this Request, Plaintiff responds as follows: Denied.

REQUEST FOR ADMISSION NO. 14:

Admit that the GOVERNANCE COMMITTEE was responsible for ensuring the Director Nominations section of the April 2016 Proxy Statement provided all appropriate disclosures.

1 RESPONSE TO REQUEST FOR ADMISSION NO. 14:

2 Plaintiff incorporates each and every General Objection and Objections made to  
3 Request No. 14 as set forth in its initial response to the Requests. Plaintiff objects to  
4 the phrase “responsible for ensuring” as undefined and subject to multiple  
5 interpretations.

6 Subject to and without waiver of the foregoing objections, and based on its  
7 understanding of this Request, Plaintiff responds as follows: Plaintiff made reasonable  
8 inquiry and the information known or readily obtainable is insufficient to enable  
9 Plaintiff to admit or deny this request and, on that basis, Plaintiff denies this Request.

10 REQUEST FOR ADMISSION NO. 16:

11 Admit that MR. SUGARMAN abstained from the BANC Board vote regarding  
12 approval of the sections of the April 2016 Proxy Statement relating to his nomination.

13 RESPONSE TO REQUEST FOR ADMISSION NO. 16:

14 Plaintiff incorporates each and every General Objection and Objections made to  
15 Request No. 16 as set forth in its initial response to the Requests. Plaintiff objects to  
16 the phrase “BANC Board vote” as undefined and subject to multiple interpretations.

17 Subject to and without waiving the foregoing objections, and based on its  
18 understanding of this Request, Plaintiff responds as follows: Denied.

19 REQUEST FOR ADMISSION NO. 23:

20 Admit that John Grosvenor had a conflict of interest with respect to the subject  
21 matters being investigated by the SPECIAL COMMITTEE.

22 RESPONSE TO REQUEST FOR ADMISSION NO. 23:

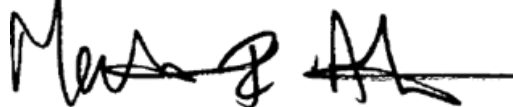
23 Plaintiff incorporates each and every General Objection and Objections made to  
24 Request No. 23 as set forth in its initial response to the Requests. Plaintiff objects to  
25 the phrases “conflict of interest” and “matters being investigated” as undefined and  
26 subject to multiple interpretations.

27 Subject to and without waiver of the foregoing objections, and based on its  
28 understanding of this Request, Plaintiff responds as follows: Plaintiff made reasonable

1 inquiry and the information known or readily obtainable is insufficient to enable  
2 Plaintiff to admit or deny this request and, on that basis, Plaintiff denies this Request.

3 DATED: February 22, 2019

ROBBINS GELLER RUDMAN  
& DOWD LLP  
SPENCER A. BURKHOLZ  
LAURIE L. LARGENT  
ROBERT R. HENSSLER JR.  
MATTHEW I. ALPERT  
ERIKA OLIVER

7  
8 

MATTHEW I. ALPERT

655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)

Lead Counsel for Plaintiff



**DECLARATION OF SERVICE BY EMAIL**

I, CAROLINE ROSINI, not a party to the within action, hereby declare that on February 22, 2019, I served the attached LEAD PLAINTIFF IRON WORKERS LOCAL NO. 25 PENSION FUND'S AMENDED RESPONSES TO DEFENDANT STEVEN A. SUGARMAN'S FIRST SET OF REQUESTS FOR ADMISSION TO LEAD PLAINTIFF NUMBERS 13-14, 16 and 23 on the parties in the within action by email addressed as follows:

**COUNSEL FOR PLAINTIFFS:**

NAME	EMAIL	PARTY NAME
Spencer A. Burkholz Laurie L. Largent Robert R. Henssler Jr. Matthew I. Alpert Erika Oliver ROBBINS GELLER RUDMAN & DOWD LLP 655 West Broadway Suite 1900 San Diego, CA 92101 Telephone: (619) 231-1058 Facsimile: (619) 231-7423	spenceb@rgrdlaw.com llargent@rgrdlaw.com bhenssler@rgrdlaw.com malpert@rgrdlaw.com eoliver@rgrdlaw.com	Iron Workers Local No. 25 Pension Fund

**COUNSEL FOR DEFENDANTS:**

NAME	EMAIL	PARTY NAME
Mark R. McDonald Robert B. Hubbell Ashleigh K. Landis Jennifer L. Zheng Alexandra M. Ward Stephanie Lenkey Tina Hinson MORRISON & FOERSTER, LLP 707 Wilshire Boulevard Suite 6000 Los Angeles, CA 90017-3543 Telephone: (213) 892-5200 Facsimile: (213) 892-5454	mmcdonald@mofo.com rhubbell@mofo.com alandis@mofo.com jzheng@mofo.com alexandraward@mofo.com slenkey@mofo.com Thinson@mofo.com	Banc of California, Inc.

NAME	EMAIL	PARTY NAME
Manuel A. Abascal Brian T. Glennon Kristen M. Tuey Joseph L. De Leon LATHAM & WATKINS LLP 355 South Grand Avenue Suite 100 Los Angeles, CA 90071-1560 Telephone: (213) 485-1234 Facsimile: (213) 891-8763	manny.abascal@lw.com brian.glennon@lw.com kristen.tuey@lw.com joseph.deleon@lw.com	Steven A. Sugarman
Michele D. Johnson Andrew R. Gray Mazamir Yousefi Ryan A. Walsh LATHAM & WATKINS LLP 650 Town Center Drive 20th Floor Costa Mesa, CA 92626-1925 Telephone: (714) 540-1235 Facsimile: (714) 755-8290	michele.johnson@lw.com andrew.gray@lw.com mazamir.yousefi@lw.com ryan.walsh@lw.com	
Whitney B. Weber LATHAM & WATKINS LLP 505 Montgomery Street Suite 2000 San Francisco, CA 94111 Telephone: (415) 391-0600 Facsimile: (415) 395-8095	whitney.weber@lw.com	

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on February 22, 2019, at San Diego, California.

  
CAROLINE ROSINI

## **EXHIBIT 4**

EXHIBIT 4  
CONDITIONALLY FILED UNDER SEAL

## **EXHIBIT 5**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION

IN RE: )  
 ) SA CV 17-00118-AG (DFMX)  
 ) JANUARY 4, 2019  
 ) SANTA ANA, CALIFORNIA  
BANC OF CALIFORNIA ) (10:06 A.M. TO 10:52 A.M.)  
SECURITIES LITIGATION )  
 )  
 )

DISCOVERY CONFERENCE  
BEFORE THE HONORABLE DOUGLAS F. MC CORMICK  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: SEE NEXT PAGE  
COURT REPORTER: RECORDED; COURT SMART  
COURTROOM DEPUTY: MS. VO  
TRANSCRIBER: DOROTHY BABYKIN  
COURTHOUSE SERVICES  
1218 VALEBROOK PLACE  
GLEN DORA, CALIFORNIA 91740  
(626) 963-0566

PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING;  
TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 ROBBINS GELLER RUDMAN & DOWD LLP  
4 BY: LAURIE LARGENT  
5 ERIKA OLIVER  
6 ROBERT RUSSELL HENSSLER, JR.  
7 ATTORNEYS AT LAW  
8 655 WEST BROADWAY  
9 SUITE 1900  
10 SAN DIEGO, CALIFORNIA 92101  
11 (TELEPHONICALLY)  
12

13 FOR DEFENDANT BANC OF CALIFORNIA, INC.:

14 MORRISON & FOERSTER LLP  
15 BY: ROBERT B. HUBBELL  
16 ATTORNEY AT LAW  
17 707 WILSHIRE BOULEVARD  
18 SUITE 6000  
19 LOS ANGELES, CALIFORNIA 90017  
20

21 FOR DEFENDANT STEVEN A. SUGARMAN:

22 LATHAM & WATKINS LLP  
23 BY: MANUEL A. ABASCAL  
24 ATTORNEY AT LAW  
25 355 SOUTH GRAND AVENUE  
SUITE 100  
LOS ANGELES, CALIFORNIA 90071

LATHAM & WATKINS LLP  
BY: RACHEL MC CARTHY BOSLEY  
ATTORNEY AT LAW  
650 TOWN CENTER DRIVE  
20TH FLOOR  
COSTA MESA, CALIFORNIA 92626

1 LAYING A FOUNDATION.

2 WHAT I TRIED TO DO BECAUSE OF THE DIFFICULT PRIVILEGE  
3 ISSUES I GEARED THE WHOLE EXAMINATION AROUND WHAT WAS PRODUCED.  
4 SO, I SHOWED HIM A LETTER BECAUSE I KNEW THAT THAT -- THEY HAD  
5 CONCLUDED WASN'T PRIVILEGED. AND I SAID WHO TOLD YOU TO WRITE  
6 THE LETTER.

7 SHOWED THEM THE INTERROGATORIES AND SAID, IS THIS  
8 TRUE?

9 SO, WHAT I TRIED TO DO IS INSTEAD OF LAYING A BROADER  
10 FOUNDATION WHERE I KNEW THERE WAS DIFFICULT PRIVILEGE ISSUES  
11 AND IT WOULD BURDEN THE DEPOSITION, I FIGURED, WELL, LET ME  
12 START WITH WHAT I KNOW THEY -- THEY HAVE CONCLUDED IS NOT  
13 PRIVILEGED. SHOW THEM THAT. AND START FROM THERE.

14 THE COURT: RIGHT.

15 MR. ABASCAL: AND THAT'S -- AND THAT'S WHAT I THOUGHT  
16 WOULD BE THE MOST EFFECTIVE WAY IF WE DO RESUME IS INSTEAD OF  
17 STARTING BROADLY AND GETTING, YOU KNOW, A BUNCH OF INSTRUCTIONS  
18 NOT TO ANSWER WAS GO WHERE I THINK THEY'VE CONCLUDED IT'S NOT  
19 PRIVILEGED AND JUST START FROM THERE.

20 AND I'M NOT PLAYING -- TRYING TO PLAY "GOTCHA." I  
21 KNOW THAT -- I'M NOT TRYING TO GET -- AND I MADE IT CLEAR IN  
22 THIS MOTION -- I'M NOT TRYING TO REVISIT THE BROAD SUBJECT  
23 MATTER WAIVER.

24 I JUST WANT FOR WHAT WAS PRODUCED TO TEST THE BANC'S  
25 ASSERTIONS ABOUT THOSE ISSUES.

1 MR. HUBBELL: YOUR HONOR, IF I MIGHT JUST ADD ONE --  
2 ONE POINT.

3 IT SOUNDS LIKE YOU'RE GOING TO REFLECT ON THIS A  
4 LITTLE BIT MORE IN LIGHT OF THE ARGUMENT.

5 I WANT TO JUST MAKE ONE THING CLEAR.

6 I GUESS I SHOULD START BY SAYING IN 37 YEARS OF  
7 PRACTICE, THIS IS THE MOST COMPLICATED PRIVILEGE CASE I HAVE  
8 EVER DEALT WITH.

9 THE COURT: WELL, YOU KNOW, THAT'S GOOD. BECAUSE I  
10 THINK -- I THINK IN A RECENT CONVERSATION WITH MY COLLEAGUE MR.  
11 RUMPER OVER HERE, I CONFESSED TO HIM THAT IN MY FIVE-PLUS YEARS  
12 I SAID THAT I'VE -- I'VE RARELY READ BRIEFS AND HAD LESS OF A  
13 NOTION OF WHAT -- WHAT REALLY IS GOING ON THAN I DID HERE.

14 AND IT REALLY TOOK, YOU KNOW, ME READING AND  
15 RE-READING AND GOING BACK OVER AND THINKING ABOUT OVER AND OVER  
16 AGAIN TO SORT OF EVEN COME TO GET A HANDLE ON -- ON WHAT --  
17 WHAT WE WERE TALKING ABOUT.

18 THE ONLY OTHER TIME I FELT LIKE THAT IS WHEN SOME --  
19 WHEN SOMEBODY IN A PATENT CASE WAS TALKING TO ME ABOUT  
20 ELECTRONICS. AND THEN -- AND THEN I WAS JUST LIKE, WELL, I'M  
21 NOT SUPPOSED TO KNOW. I WAS A SOCIAL ECOLOGY MAJOR.

22 (LAUGHING.)

23 THE COURT: GO AHEAD.

24 MR. HUBBELL: SO, IF I MIGHT CONTINUE, WE'VE ALL  
25 STRUGGLED WITH THESE ISSUES. THE BANC HAS. MR. SUGARMAN HAS.

1 IT SOUNDS LIKE THE COURT HAS AS WELL.

2 THE ONE THING THAT THE BANC HAS BEEN CLEAR ABOUT AT  
3 EVERY STEP IS IT HAS ATTEMPTED TO PROTECT THE PRIVILEGE.

4 THESE ARE DIFFICULT QUESTIONS. SOME OF THEM HAVE  
5 BEEN MADE ON THE FLY.

6 IF WE GOT IT WRONG, WE WOULD LIKE THE OPPORTUNITY TO  
7 REVISIT BECAUSE WE -- THE LAST THING WE WANT TO DO IS TO  
8 INADVERTENTLY WAIVE THE PRIVILEGE TO MAKE A SELECTIVE  
9 DISCLOSURE.

10 YOU KNOW, I HEAR MR. ABASCAL SAY, WELL, YOU KNOW,  
11 THEY SHOULD CLAW-BACK THESE DOCUMENTS. WE THINK WE MADE THE  
12 RIGHT JUDGMENT AND THAT WE SHOULDN'T HAVE TO. BUT IF WE MADE  
13 IT WRONG -- IF -- IF THE COURT DISAGREES AND THINKS THAT IN  
14 MAKING THOSE JUDGMENTS SOMEHOW WE'VE STEPPED OVER THE LINE IN  
15 THE HEAT OF A DEPOSITION, WE'D LIKE THE OPPORTUNITY TO REFLECT  
16 ON WHETHER OR NOT, YOU KNOW, WE GOT IT RIGHT AND WHETHER WE  
17 SHOULD TAKE SOME OTHER ACTION TO PROTECT THE PRIVILEGE.

18 THE COURT: I DON'T -- I DON'T THINK -- I DON'T THINK  
19 THERE'S REALLY MUCH -- I THINK ONE OF THE -- YOU KNOW, BEDROCK  
20 CORNERSTONES AS WE LOOK AT THIS ISSUE THAT WE CAN ALL AGREE ON  
21 IS THAT THE MICHELMAN LETTERS TO WILMER HALE, THERE'S --  
22 THERE'S NOT A COMPELLING PRIVILEGE ARGUMENT FOR THOSE. THAT--  
23 THEY'RE NOT -- THEY'RE NOT ATTORNEY-CLIENT PRIVILEGED  
24 COMMUNICATIONS. THEY DON'T MEET THE EIGHT-FACTOR NINTH CIRCUIT  
25 TEST.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT  
FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE  
ABOVE-ENTITLED MATTER.

/S/ DOROTHY BABYKIN

1/9/19

\_\_\_\_\_  
FEDERALLY CERTIFIED TRANSCRIBER  
DOROTHY BABYKIN

\_\_\_\_\_  
DATED

## **EXHIBIT 6**

Joseph Deleon  
Direct Dial: (213) 891-8317  
joseph.deleon@lw.com

355 South Grand Avenue, Suite 100  
Los Angeles, California 90071-1560  
Tel: +1.213.485.1234 Fax: +1.213.891.8763  
www.lw.com

## LATHAM & WATKINS LLP

February 22, 2019

### VIA EMAIL

Morrison & Foerster LLP  
Robert B. Hubbell  
RHubbell@mofo.com  
707 Wilshire Blvd., Suite 6000  
Los Angeles, CA 90017-3543

#### FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	Rome
Frankfurt	San Diego
Hamburg	San Francisco
Hong Kong	Seoul
Houston	Shanghai
London	Silicon Valley
Los Angeles	Singapore
Madrid	Tokyo
Milan	Washington, D.C.

Re: In re Banc of California Sec. Lit., No. 8:17-cv-00118-AG-DFM

Dear Rob,

On February 11, 2019, the Court ordered that Banc “supplement its descriptions to support the claims of privilege as to communications with Sanford Michelman that took place between December 30, 2016 and January 10, 2017.” (Dkt. 513 at 3). Accordingly, on February 13, 2018, Banc amended its descriptions for the following documents in its August 29 and September 3, 2018 Privilege Logs:

- **August 29, 2018:** Nos. 185 (“Letter concerning interview of counsel for Special Committee investigation”), 200 (“Email responding to request for assistance with document requests for Special Committee investigation”)
- **September 3, 2018:** Nos. 748 (“Email concerning counsel’s assistance with document requests for Special Committee investigation”), 756 (“Email responding to request for assistance with document requests for Special Committee investigation”), 759 (“Email responding to request for assistance with document request for Special Committee investigation”), 1175 (“Email responding to request for assistance with document requests for Special Committee investigation”), 1176 (Email responding to request for assistance with document request for Special Committee investigation”)

However, these amended descriptions still fail to address how within a span of six days, Mr. Michelman switches from acting adverse to the Banc (December 30, 2016), to acting on behalf of Banc’s interest (January 1, 2017), to then again acting adverse to the Banc (January 2, 2017), and finally acting on behalf of Banc’s interest (January 3 and January 4, 2017). *See also* Dkt. 513 at 3 (“[I]t is unclear from the log why Banc has marked as non-privileged certain letters

February 22, 2019  
Page 2

LATHAM & WATKINS<sup>LLP</sup>

between Michelman and Lee (e.g., letters on December 30, 2016 and January 2, 2017), while treating as privileged other communications between them from the same time period.”)

In addition, the Court ordered Banc to amend its August 29, 2019 privilege log entries (MR 980-1009) to address Mr. Sugarman’s assertion that these documents reflect reports Mr. Michelman received from whistleblowers about director misconduct. (Dkt. 513 at 3). Banc amended its descriptions in the following documents:

- **August 29, 2018:** MR000980 (“Document regarding transition of legal matters from counsel”), MR000981 (“Document regarding transition of legal matters from counsel”), MR001011 (“Email regarding transition of legal matters from counsel”)

Banc asserts that these documents are “not whistleblower reports” but rather communications “regarding the transition of legal matters from Mr. Michelman.” (Dkt. 521 at 2). While these documents may be related to the transition of legal matters, Mr. Sugarman maintains that these communications, at least in part, discuss reports Mr. Michelman received from whistleblowers.

We would like to resolve these issue promptly. Please let us know when you are available for a telephone call to discuss these issues. Please respond no later than February 27, 2019 – or we will seek assistance from the Court. We appreciate your prompt attention to this matter.

Best regards,

/s/ Joseph De Leon

Joseph De Leon  
of LATHAM & WATKINS LLP

## **EXHIBIT 7**



LATHAM & WATKINS LLP  
Manny A. Abascal (Bar No. 171301)  
*manny.abascal@lw.com*  
Brian Glennon (Bar No. 211012)  
*Brian.glennon@lw.com*  
Kristen M. Tuey (Bar No. 252565)  
*kristen.tuey@lw.com*  
355 South Grand Avenue, Suite 100  
Los Angeles, CA 90071-1560  
Tel: (213) 485-1234  
Fax: (213) 891-8763

LATHAM & WATKINS LLP  
Michele D. Johnson (Bar No. 198298)  
*michele.johnson@lw.com*  
Andrew R. Gray (Bar No. 254594)  
*andrew.gray@lw.com*  
650 Town Center Drive, 20th Floor  
Costa Mesa, CA 92626-1925  
Tel: (714) 540-1235  
Fax: (714) 755-8290

Attorneys for Defendants  
Steven A. Sugarman

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

IN RE BANC OF CALIFORNIA  
SECURITIES LITIGATION

CASE NO. SACV 17-00118 AG (DFMx)  
consolidated with  
SACV 17-00138 AG (DFMx)

**DEFENDANT STEVEN A.  
SUGARMAN'S FIFTH REQUEST  
FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT  
BANC OF CALIFORNIA**

This Document Relates to:  
  
ALL ACTIONS

Judge: Hon. Andrew J. Guilford  
Courtroom: 10D

Trial Date: October 22, 2019

1 PROPOUNDING PARTY: Defendant Steven A. Sugarman

2 RESPONDING PARTY: Defendant Banc of California

3 SET NUMBER: Five

4 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure,  
5 Defendant Steven A. Sugarman hereby requests that, within thirty (30) days of  
6 service, Defendant Banc of California (“Banc”) produce the documents,  
7 electronically stored information, and tangible things specified herein at the offices  
8 of Latham & Watkins LLP, c/o Michele D. Johnson, Esq., 650 Town Center Drive,  
9 20<sup>th</sup> Floor, Costa Mesa, California 92626-1925. Such production should be made  
10 in accordance with the Definitions and Instructions set forth below.

11 These Document Requests incorporate by reference all definitions and rules  
12 of construction set forth in Rule 34 of the Federal Rules of Civil Procedure and  
13 supplement them with the following Definitions and Instructions, which apply to  
14 each Request set forth herein.

15 **DEFINITIONS**

16 1. “Action” shall mean the present lawsuit, *In re Banc of California*  
17 *Securities Litigation*, Case No. SACV 17-00118 AG (DFMx), pending in the  
18 United States District Court for the Central District of California.

19 2. “Affiliate” shall mean a person that directly, or indirectly through one  
20 or more intermediaries, controls or is controlled by, or is under common control  
21 with, the person specified.

22 3. “And” and “or” shall be construed either disjunctively or  
23 conjunctively, as necessary by the context, to bring within the scope of the  
24 Definition, Instruction, or Request all responses that might otherwise be construed  
25 to be outside of its scope by any other construction.

26 4. “All,” “any,” and “each” shall each be construed as encompassing any  
27 and all.

28 5. “Banc,” “you,” or “your” shall collectively refer to Defendant Banc

1 of California, Inc., Banc of California, N.A., and, without limitation, its  
2 predecessors, successors, parents, subsidiaries, affiliates, divisions, directors,  
3 officers, principals, trustees, agents, representatives, consultants, attorneys, or any  
4 other person acting on their behalf. As used herein, “you” and “your” shall be  
5 construed either disjunctively or conjunctively, to include Banc of California, Inc.  
6 individually as well as collectively with Banc of California, N.A. or any other  
7 affiliate, including The Palisades Group, and as necessary by the context, to bring  
8 within the scope of the definition, instruction, or Request all responses that might  
9 otherwise be construed to be outside of its scope by any other construction.

10 6. “Board” and “Boards” shall mean individually and collectively the  
11 Board of Directors of Banc of California, Inc. and Banc of California, N.A.

12 7. “Communication” or “communications” shall mean the transmittal of  
13 information (in the form of facts, ideas, inquiries, or otherwise) in any form,  
14 including without limitation e-mail, text message, and letters (including  
15 attachments).

16 8. “Concerning” means relating to, referring to, describing, evidencing,  
17 or constituting.

18 9. “Document” or “documents” is defined to mean all documents,  
19 electronically stored information, electronic data, and tangible things in the  
20 broadest sense under Rule 34 of the Federal Rules of Civil Procedure, and shall  
21 mean anything that can be read, viewed, heard, or otherwise understood. Subject  
22 to and in accordance with the Instructions herein, “document” shall not be limited  
23 in any way with respect to medium, embodiment, or process of creation,  
24 generation, or reproduction; “document” shall include, without limitation, all  
25 preliminary, intermediate, and final versions thereof, as well as any notations,  
26 comments, and marginalia (handwritten or otherwise) appearing thereon or therein;  
27 “document” shall include originals (or high quality duplicates), all non-identical  
28 copies or drafts, and all attachments, exhibits, or similar items. Any document

bearing on any sheet or side thereof, any marks, including, without limitation, initials, notations, comments, or marginalia of any character which are not part of the original text or reproduction thereof, shall be considered a separate document. Document or documents shall include without limitation any and all Communications.

10. “Electronic data” refers to any original and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind), mechanical, facsimile, electronic, magnetic, digital, or other programs (whether private, commercial, or work-in-progress), programming notes or instructions, activity listings of electronic mail or “e-mail” receipts or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs, and outlines, electronic mail, operating systems, source code of all types, programming languages, linkers and compilers, peripheral drives, PDF files, PRF files, batch files, ASCII files, crosswalks, code keys, pull down tables, logs, file layouts, or any miscellaneous files or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists of an active file, backup file, deleted file, or file fragment. “Electronic data” also includes, without limitation, any items stored on computer memory or memories, hard drives, zip drives, CD-ROM discs or in any other vehicle for electronic or digital data storage or transmittal, files, folder tabs, or containers and labels appended to or associated with any physical storage device associated with each original and each copy.

11. “Galanis” shall mean Jason W. Galanis and any of his agents, representatives, consultants, attorneys, or any other person acting on his behalf.

12. “Global Relay” shall mean the Global Relay Archive program maintained or operated by YOU to organize or archive emails, documents, and other data.

1 13. "Governance Committee" shall mean the Banc's Joint Compensation,  
2 Nominating and Corporate Governance Committee.

3 14. "Governance Committee Investigation" shall mean the Banc's  
4 investigation led by Winston & Strawn initiated in October 2015.

5 15. "Person" shall mean any natural person or any legal entity, including,  
6 without limitation, any business or governmental entity or association.

7 16. "Reputational Risk Factor" shall refer to Banc's disclosure in its Form  
8 10-K for the fiscal year ended December 31, 2015, filed with the SEC on February  
9 18, 2016, that "Managing reputational risk is important to attracting and  
10 maintaining customers, investors and employees" and "Threats to our reputation  
11 can come from many sources, including adverse sentiment about financial  
12 institutions generally, unethical practices, employee misconduct, failure to deliver  
13 minimum standards of service or quality, compliance deficiencies and questionable  
14 or fraudulent activities of our customers. We have policies and procedures in place  
15 to promote ethical conduct and protect our reputation. However, these policies and  
16 procedures may not be fully effective. Negative publicity regarding our business,  
17 employees, or customers, with or without merit, may result in the loss of  
18 customers, investors and employees, costly litigation, a decline in revenues and  
19 increased governmental oversight."

20 17. "Response to Plaintiff's RFA" shall refer to Banc's Responses to Lead  
21 Plaintiff's Second Set of Requests for Admissions, dated October 11, 2018.

22 18. "*Salas Arbitration*" shall mean the arbitration captioned *Salas v. Banc*  
23 *of California, et al.*, AAA Case No. 01-18-0000-6461, commenced on May 20,  
24 2018 and pending before the American Arbitration Association.

25 19. "SEC" shall mean the United States Securities and Exchange  
26 Commission, including all present or former officers, directors, employees, agents,  
27 attorneys, advisors, accountants, consultants, and all other persons acting or  
28 purporting to act on its behalf.



20. “Short-Swing Profit” shall mean Section 16(b) of the Securities Exchange Act of 1934.

21. “Winston & Strawn” shall mean the law firm Winston & Strawn LLP, and, without limitation, its predecessors, successors, parents, subsidiaries, affiliates, divisions, directors, officers, principals, trustees, agents, representatives, consultants, attorneys, or any other person acting on their behalf.

22. The use of the singular form of any word shall include the plural form of the same and vice versa.

### **INSTRUCTIONS**

1. The Requests herein cover all documents within your possession, custody, or control, regardless of whether they are currently in your possession, including, but not limited to, all documents within the possession, custody, or control of persons acting on your behalf or at your instruction. For any requested document no longer in your possession, custody, or control, state what disposition was made of the document and the date of such disposition and identify all persons having knowledge of the document’s contents. For any requested document that has been destroyed, state what document has been destroyed, when the document was destroyed, why it was destroyed, and all persons who participated in or were involved in the decision to destroy.

2. All documents shall be produced: (a) as they are kept in the ordinary course of business, complete with the original file folders, binders, containers, or other devices in which they are stored (or legible copies of the labels or other identifying information from those folders, binders, containers, or devices), or (b) organized according to the Request to which they respond. If you elect the latter mode of production, each document from a particular file, binder, container, or other device shall be accompanied by a legible copy of the label or other identifying information from that, file, binder, container, or device or some other reliable indicator of the location, file, binder, container, or device from which it

1 was taken.

2 3. All documents that are in paper form or that constitute other physical  
3 objects from which information may be visually read or viewed, as well as audio or  
4 video tapes and similar recordings, shall be produced in their original form or in  
5 copies that are exact duplicates of the originals.

6 4. All electronic documents, electronic data, or other Electronically  
7 Stored Information (“ESI”) shall be produced as single-page, Group IV, 300 DPI  
8 TIFF images with the exception of audio, video, slideshow presentation-type files  
9 including, but not limited to, Microsoft PowerPoint, and spreadsheet-type files  
10 including, but not limited to Microsoft Excel, which should be produced in native  
11 format. All ESI should be produced with a delimited, database load file that  
12 includes metadata—the parties shall meet and confer to determine the appropriate  
13 metadata fields to include. An .opt image cross-reference file should also be  
14 provided for all TIFF images. TIFF images should show any and all text and  
15 images which would be visible to the reader using the native software that created  
16 the document. For example, TIFF images of e-mail messages should include the  
17 BCC line. If a document is produced in native format, a single-page Bates-  
18 stamped TIFF image slip-sheet containing text stating the document has been  
19 produced in native format should also be provided. Each native file should be  
20 named according to the Bates number it has been assigned, and should be linked  
21 directly to its corresponding record in the load file using the NATIVELINK field.  
22 Removal of duplicate documents should only be done on exact duplicate  
23 documents (based on MD5 or SHA-1 hash values, at the family level).  
24 Attachments should not be eliminated as duplicates for purposes of production,  
25 unless the parent e-mail and all attachments are also duplicates. An email that  
26 includes content in the BCC or other blind copy field should not be treated as a  
27 duplicate of an email that does not include content in those fields, even if all  
28 remaining content in the e-mail is identical. Removal of near-duplicate documents

1 and email thread suppression is not acceptable. The documents should be  
2 produced on CD-ROM, DVD, external hard drive (with standard PC compatible  
3 interface), File Transfer Protocol (for document production under 10GB), or such  
4 other readily accessible computer or electronic media as the parties may hereafter  
5 agree upon.

6 5. If you object to any portion of any Request herein, identify the portion  
7 of the Request to which you object, state the reason for your objection with  
8 specificity, and answer the remainder of the Request. If any Request calls for a  
9 document or communication for which you claim any privilege or work product  
10 protection for all or any portion of such document or communication, provide a  
11 privilege log containing the information required by Rule 26(b)(5)(A) of the  
12 Federal Rules of Civil Procedure.

13 6. The Requests herein are continuing so that any additional documents  
14 responsive to the Requests herein that you acquire or discover, up to and including  
15 the time of trial, shall be furnished through prompt supplemental responses. Fed.  
16 R. Civ. P. 26(e). This paragraph shall not be construed to alter your obligations to  
17 comply with all other instructions herein.

18 7. Unless otherwise specified, the Requests cover the time period  
19 September 2015 to the present.

20 **REQUESTS FOR PRODUCTION**

21 **REQUEST FOR PRODUCTION NO. 98:**

22 All of the following DOCUMENTS, and if the DOCUMENT is an email,  
23 any and all additional emails in the email chain and attachments thereto:

- 24 • December 17, 2015 email between John Grosvenor and David Aronoff with  
25 subject "RE: Galanis," including but not limited to the DOCUMENT  
26 produced by Winston & Strawn at W&S\_BOC\_00007792 and all other  
27 emails in the email chain;  
28

- 1 • May 11, 2016 email from Mr. Sugarman to Hugh Boyle and Gary  
2 Kausmeyer, copying John Grosvenor, David Aronoff and Jeff Seabold, with  
3 subject “AC PRIV,” including but not limited to the DOCUMENT produced  
4 by Winston & Strawn at W&S\_BOC\_00004688;
- 5 • May 12, 2016 emails between Steven Sugarman and Halle Bennet;
- 6 • May 19, 2016 email from John Grosvenor regarding account closures,  
7 including but not limited to the DOCUMENT produced by Winston &  
8 Strawn at W&S\_BOC\_00004515;
- 9 • October 18, 2016 email from John Grosvenor to Matt Guest and David  
10 Aronoff, copying Angelee Harris, with subject “draft PR,” including but not  
11 limited to the DOCUMENTS produced by Winston & Strawn at  
12 W&S\_BOC\_00004136 and W&S\_BOC\_00008426;
- 13 • October 18, 2016 email from Tim Sedabres to Angelee Harris and Mr.  
14 Sugarman, copying Matt Guest, Francisco Turner, Hugh Boyle, John  
15 Grosvenor, and David Aronoff, with subject “draft PR,” including but not  
16 limited to the DOCUMENT produced by Winston & Strawn at  
17 W&S\_BOC\_00002718;
- 18 • October 18, 2016 email among Chad Brownstein, David Aronoff, John  
19 Grosvenor, and Scott Fishwick, among others, regarding draft letter,  
20 including but not limited to the DOCUMENT produced by Winston &  
21 Strawn at W&S\_BOC\_00004042;
- 22 • October 18, 2016 emails between or among Fran Turner, John Grosvenor,  
23 Hugh Boyle, Terrin Enssle, and Steven Sugarman, among others, with  
24 subject “Contingent Funding Plan – Activation,” including any additional  
25 emails in the email string and attachments thereto;
- 26 • October 18, 2016 emails between or among Gaylin Anderson, Steven  
27 Sugarman, Jeff Seabold, Hugh Boyle, Fran Turner, and Carlos Salas with  
28

1 subject "Lanco Account \$26MM," including any additional emails in the  
2 email string and attachments thereto;

- 3 • October 19, 2016 email from Terrin Enssle to Hugh Boyle, Steven  
4 Sugarman, Fran Turner, Jeff Seabold and John Grosvenor, among others,  
5 with subject "Contingency Funding Plan – Updated EOD 10/19/16,"  
6 including any additional emails in the email string and attachments thereto;
- 7 • October 19, 2016 emails between or among David Aronoff and John  
8 Grosvenor with subject "Proposed Introductory Remarks," including but not  
9 limited to the DOCUMENTS produced by Winston & Strawn at  
10 W&S\_BOC\_00009528, W&S\_BOC\_00009523, and  
11 W&S\_BOC\_00003936; and
- 12 • October 23, 2016 email from David Aronoff to John Grosvenor with subject  
13 "AC Privilege," including but not limited to the DOCUMENT produced by  
14 Winston & Strawn at W&S\_BOC\_00009109.

15 REQUEST FOR PRODUCTION NO. 99:

16 For the time period September 1, 2015 to March 31, 2017, all calendar items  
17 or entries for John Grosvenor, Jonah Schnel, Eric Holoman, Chad Brownstein, Jeff  
18 Karish, Bob Sznewajs, and Halle Bennet.

19 REQUEST FOR PRODUCTION NO. 100:

20 For the time period September 1, 2015 to January 23, 2017, all handwritten  
21 or electronic notes taken at any BOARD or GOVERNANCE COMMITTEE  
22 meeting, including without limitation notes taken by John Grosvenor or Angelee  
23 Harris.

24 REQUEST FOR PRODUCTION NO. 101:

25 All emails sent or received by John Grosvenor, Hugh Boyle, Tim Sedabres,  
26 Jim McKinney, David Herbst, Michael Sitrick, or any Board member on October  
27 18, 2016 and October 19, 2016.  
28



1 REQUEST FOR PRODUCTION NO. 102:

2 All draft and final minutes of any BOARD or GOVERNANCE  
3 COMMITTEE meeting, including without limitation meta-data sufficient to show  
4 when the draft and/or final minutes were created, revised, and by whom.

5 REQUEST FOR PRODUCTION NO. 103:

6 All DOCUMENTS CONCERNING the BOARD's approval or ratification  
7 of any minutes of the BOARD after the October 18, 2016 Board of Directors  
8 meeting.

9 REQUEST FOR PRODUCTION NO. 104:

10 All DOCUMENTS and COMMUNICATIONS from October 18, 2016 that  
11 refer, reflect, or relate to a draft or final press release, including without limitation  
12 all drafts and the final version of the October 18, 2016 Press Release.

13 REQUEST FOR PRODUCTION NO. 105:

14 All drafts of the October 18, 2016 Press Release, including without  
15 limitation the final version that was released to the public and further including  
16 without limitation (a) meta-data sufficient to identify who created and revised each  
17 document, and (b) on whose computer the document resided.

18 REQUEST FOR PRODUCTION NO. 106:

19 All COMMUNICATIONS that refer, reflect, or relate to any draft or final  
20 press release occurring on October 18, 2016 or October 19, 2016.

21 REQUEST FOR PRODUCTION NO. 107:

22 All drafts and the final version of the statement made by John Grosvenor  
23 during Banc's October 19, 2016 investor call and communications relating thereto.

24 REQUEST FOR PRODUCTION NO. 108:

25 For the time period October 19, 2016 to October 25, 2016, all  
26 DOCUMENTS drafted or edited by John Grosvenor CONCERNING BANC's  
27 October 18, 2016 press release or the GOVERNANCE COMMITTEE  
28 INVESTIGATION.

1 REQUEST FOR PRODUCTION NO. 109:

2 All phone records reflecting calls made, received or missed on October 18,  
3 2016 and October 19, 2016 on any mobile or hard line telephone for the following  
4 people: Steven Sugarman, John Grosvenor, Tim Sedabres, Francisco Turner, and  
5 Hugh Boyle.

6 REQUEST FOR PRODUCTION NO. 110:

7 All DOCUMENTS CONCERNING the decision by the BOARD,  
8 GOVERNANCE COMMITTEE, and/or YOU not to pay, or not to approve The  
9 Palisades Group to pay, Jason Sugarman a bonus in or around 2016, including  
10 without limitation (a) DOCUMENTS CONCERNING accruals to Jason Sugarman,  
11 (b) DOCUMENTS CONCERNING any accounting memoranda justifying not  
12 paying Jason Sugarman a bonus, and (c) DOCUMENTS CONCERNING any  
13 recommendation regarding this matter by Winston & Strawn based on the ongoing  
14 GOVERNANCE COMMITTEE INVESTIGATION.

15 REQUEST FOR PRODUCTION NO. 111:

16 All COMMUNICATIONS with Jason Sugarman CONCERNING any bonus  
17 payment, including without limitation the decision whether to pay any bonus to  
18 Jason Sugarman, in or around 2016.

19 REQUEST FOR PRODUCTION NO. 112:

20 All COMMUNICATIONS between David Aronoff, Gayle Jenkins, or  
21 anyone from Winston & Strawn, on the one hand, and John Grosvenor, Jonah  
22 Schnel, Eric Holoman, Chad Brownstein, Jeffrey Karish, Robert Sznewajs, or  
23 Halle Benett, on the other hand, between the time period September 1, 2015 and  
24 December 31, 2016.

25 REQUEST FOR PRODUCTION NO. 113:

26 All COMMUNICATIONS between or among John Grosvenor, Jonah  
27 Schnel, Eric Holoman, Chad Brownstein, Jeffrey Karish, Robert Sznewajs, or  
28 Halle Benett CONCERNING Winston & Strawn, David Aronoff, Gayle Jenkins,

1 Jason Galanis, Hugh Dunkerley, the GOVERNANCE COMMITTEE, Dominion  
2 Advisory Group, Jason Sugarman, or Bloomberg for the time period September 1,  
3 2015 through December 31, 2016.

4 REQUEST FOR PRODUCTION NO. 114:

5 All DOCUMENTS sufficient to identify the cost center(s) to which Winston  
6 & Strawn's invoices for the GOVERNANCE COMMITTEE INVESTIGATION  
7 were billed.

8 REQUEST FOR PRODUCTION NO. 115:

9 For the quarterly period ended December 31, 2015 and for the full calendar  
10 year in 2016, all BOARD quarterly reports or presentations by the Chief Legal  
11 Officer CONCERNING the cost center allocation, accounting, budgeting, or any  
12 other explanation relating to the cost of the GOVERNANCE COMMITTEE  
13 INVESTIGATION.

14 REQUEST FOR PRODUCTION NO. 116:

15 For the quarterly period ended December 31, 2015 and for the full calendar  
16 year in 2016, all BOARD "Value-Based Management" quarterly reports or  
17 presentations CONCERNING the cost center allocation, accounting, budgeting, or  
18 any other explanation relating to the cost of the GOVERNANCE COMMITTEE  
19 INVESTIGATION.

20 REQUEST FOR PRODUCTION NO. 117:

21 All COMMUNICATIONS regarding the drafting and inclusion in SEC  
22 filings of the Reputational Risk Factor.

23 REQUEST FOR PRODUCTION NO. 118:

24 All DOCUMENTS sufficient to identify all persons who requested or  
25 approved Winston & Strawn's access to Banc's Global Relay system or archives,  
26 including but not limited to the documents produced by Winston & Strawn at  
27 W&S\_BOC\_00010829 and W&S\_BOC\_00013807.  
28

1 REQUEST FOR PRODUCTION NO. 119:

2 YOUR policy regarding access to YOUR GLOBAL RELAY system and  
3 archives.

4 REQUEST FOR PRODUCTION NO. 120:

5 All DOCUMENTS sufficient to identify the person(s) who reviewed or  
6 approved payment for each of Winston & Strawn's invoices relating to the  
7 GOVERNANCE COMMITTEE INVESTIGATION.

8 REQUEST FOR PRODUCTION NO. 121:

9 Any and all notes from Hugh Boyle's notebook for the time period October  
10 2015 to January 23, 2017.

11 REQUEST FOR PRODUCTION NO. 122:

12 Any and all notes from Hugh Boyle relating to: (a) the events of October 18,  
13 2016, (b) Mr. Boyle's November 26, 2016 presentation to the BOARD, and (c) the  
14 risk management enhancement project in November and December 2016  
15 (including Mr. Boyle's December 17, 2016 meeting with Jonah Schnel and the  
16 December 23, 2016 BOARD and/or GOVERNANCE COMMITTEE meeting).

17 REQUEST FOR PRODUCTION NO. 123:

18 All COMMUNICATIONS among or between Hugh Boyle, Steven  
19 Sugarman, Jonah Schnel, Cynthia Abercrombie, and/or others relating to the risk  
20 management enhancement project for the time period December 15, 2016 through  
21 December 30, 2016.

22 REQUEST FOR PRODUCTION NO. 124:

23 All DOCUMENTS relating to Mr. Boyle's November 26, 2016 presentation  
24 to the BOARD from or concerning John Grosvenor or any BOARD member.

25 REQUEST FOR PRODUCTION NO. 125:

26 All DOCUMENTS sufficient to show the date and time any person logged  
27 in to Onehub.com or BoardVantage to review materials CONCERNING any  
28 meeting of the BOARD or any BOARD subcommittee, how long the person was

1 logged in, and for what purpose, including without limitation access logs relating  
2 to GOVERNANCE COMMITTEE meetings and calls, for the time period  
3 September 1, 2015 to March 31, 2017, including without limitation  
4 GOVERNANCE COMMITTEE meetings held on December 22, 2015, January 26,  
5 2016, April 2016, and May 19, 2016, as well as BOARD meetings held on October  
6 18 and 19, 2016.

7 REQUEST FOR PRODUCTION NO. 126:

8 For the time period January 1, 2016 to December 31, 2016, all  
9 COMMUNICATIONS CONCERNING SHORT-SWING PROFIT and trading by  
10 persons covered by Section 16 of the Securities Exchange Act of 1934, including  
11 Mr. Sugarman.

12 REQUEST FOR PRODUCTION NO. 127:

13 The transcripts of any and all depositions taken in the *Salas* Arbitration.

14 REQUEST FOR PRODUCTION NO 128:

15 All DOCUMENTS produced in the *Salas* Arbitration.

16 REQUEST FOR PRODUCTION NO. 129:

17 All DOCUMENTS and COMMUNICATIONS referenced by Banc in its  
18 Response to Plaintiff's RFA No. 19 admitting that "there are documents and  
19 witnesses with knowledge relevant to whether Sugarman was almost solely  
20 responsible for the decision to issue the October 18, 2016 press release and for its  
21 contents."

22 REQUEST FOR PRODUCTION NO. 130:

23 All DOCUMENTS and COMMUNICATIONS referenced by Banc in its  
24 Response to Plaintiff's RFA No. 21 admitting that "the Winston & Strawn  
25 investigation was not initiated by the Board of Directors or any subset of the  
26 Board; rather, it was directed by Mr. Sugarman."



1 REQUEST FOR PRODUCTION NO. 131:

2 All DOCUMENTS and COMMUNICATIONS referenced by Banc in its  
3 Response to Plaintiff's RFA No. 22 admitting that "there are documents and  
4 witnesses with knowledge relevant to whether the Winston & Strawn investigation  
5 was initiated by the Board of Directors or any subset thereof, and whether it was  
6 directed by Mr. Sugarman."

7 REQUEST FOR PRODUCTION NO. 132:

8 All DOCUMENTS and COMMUNICATIONS referenced by Banc in its  
9 Response to Plaintiff's RFA Nos. 24 and 25 admitting that Banc believes  
10 Sugarman knew that certain statements in the October 18, 2016 press release were  
11 false.

12 REQUEST FOR PRODUCTION NO. 133:

13 All DOCUMENTS and COMMUNICATIONS referenced by Banc in its  
14 Response to Plaintiff's RFA Nos. 28 and 29 admitting that "Sugarman improperly  
15 resisted and attempted to prevent the formation of a Special Committee and, once  
16 the Special Committee was formed, he interfered with and delayed the Special  
17 Committee's investigation."

18 REQUEST FOR PRODUCTION NO. 134:

19 All DOCUMENTS and COMMUNICATIONS referenced by Banc in its  
20 Response to Plaintiff's RFA Nos. 30 and 31 admitting that "Sugarman provided  
21 inaccurate information to the Special Committee."

22 REQUEST FOR PRODUCTION NO. 135:

23 All DOCUMENTS AND COMMUNICATIONS referenced by Banc in its  
24 Response to Plaintiff's RFA Nos. 34 and 35 admitting that "Sugarman was  
25 responsible for the positions taken by Sanford Michelman."

26 REQUEST FOR PRODUCTION NO. 136:

27 All COMMUNICATIONS between or among YOU and Sanford  
28 Michelman for the time period October 2016 to January 2017, including without

1 limitation DOCUMENTS showing anyone giving direction to Mr. Michelman or  
2 the basis for any positions taken by Mr. Michelman.

3 REQUEST FOR PRODUCTION NO. 137:

4 All DOCUMENTS and COMMUNICATIONS referenced by Banc in its  
5 Response to Plaintiff's RFA Nos. 40 and 41 admitting that "Sugarman was  
6 responsible for, or at least involved in, the decision to have outside counsel for  
7 COR object for weeks to production of documents."

8 REQUEST FOR PRODUCTION NO. 138:

9 All DOCUMENTS that refer, reflect, or relate to COMMUNICATIONS  
10 between or among YOU, on the one hand, and/or Brian Blais, Tejal D. Shah,  
11 and/or Nancy Brown, on the other hand.

12 REQUEST FOR PRODUCTION NO. 139:

13 All DOCUMENTS that refer, reflect, or relate to Marti P. Murray.

14 REQUEST FOR PRODUCTION NO. 140:

15 All COMMUNICATIONS involving YOU (including  
16 COMMUNICATIONS involving Banc's outside counsel), on the one hand, and  
17 any PERSON (excluding Banc's employees, directors or outside counsel), on the  
18 other hand, CONCERNING any discovery request issued by Mr. Sugarman  
19 relating to this Action, including but not limited to offers to help oppose discovery  
20 requests as shown in Exhibit 1.

21 REQUEST FOR PRODUCTION NO. 141:

22 All DOCUMENTS that refer, reflect, or relate to any personal security  
23 services, risks, and/or threats to Mr. Sugarman and his family for the time period  
24 October 18, 2016 to January 23, 2017.  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: October 25, 2018

LATHAM & WATKINS LLP  
Manuel A. Abascal

By: /s/ Manuel A. Absacal  
Manuel A. Abascal

*Attorneys for Defendant, Steven A.  
Sugarman*

## Exhibit 1

---

**From:** Tim Coffey <TCoffey@figpartners.com>  
**Sent:** Tuesday, August 28, 2018 10:13 AM  
**To:** Geoffrey M. Hodgson  
**Subject:** FW: BANC

Geoff –

BANC just called me. The CFO talked to his general counsel and we're (obviously) not the only ones to receive a subpoena from Sugarman in the last couple of days. BANC is offering to help all of us coordinate a response to the subpoena, if we are interested. The bank's attorney is Mark McDonald at Morrison & Foerster and his contact info is below.

Tim

**Timothy N. Coffey**  
*Vice President, Research*  
**FIG Partners LLC**

Direct: (925) 393-5204  
Mobile: (415) 244-8396

700 Ygnacio Valley Road  
Suite 270  
Walnut Creek, CA 94596

*We are dedicated to Community Banks and we exist to be the Trusted Advisor for Community Banks and their Investors.*  
**Please learn more at [www.figpartners.com](http://www.figpartners.com)**

E-mail sent through the Internet is not secure. The information contained herein has been prepared from sources and data we believe to be reliable but we make no representation as to its accuracy or completeness. The opinions expressed herein are our own unless otherwise noted and are subject to change without notice. Past performance is no guarantee of future results. This email is solely for information purposes and should not be construed as an offer to buy or sell, or a solicitation of an offer to buy or sell, any security. The securities discussed herein are not suitable for everyone; each investor should assess his or her own particular financial condition and investment objectives before making any investment decisions. FIG Partners, LLC and/or their officers may from time to time acquire, hold or sell a position in the securities discussed herein or may have a corporate finance relationship with such companies or in the case of employees or officers, may sit on the boards of such companies. FIG Partners, LLC may be a market maker, act as principal for its own account or as agent for both buyer and seller in connection with the purchase or sale of any security discussed herein.

**From:** John Bogler [mailto:John.Bogler@bancofcal.com]  
**Sent:** Tuesday, August 28, 2018 10:11 AM  
**To:** Tim Coffey <TCoffey@figpartners.com>  
**Subject:** BANC

**MARK MCDONALD**  
Partner | Morrison & Foerster LLP  
707 Wilshire Boulevard | Los Angeles, CA 90017-3543  
P: +1 (213) 892.5810 | F: +1 (323) 210.1137 | C: +1 (213) 327.8659  
[mofo.com](http://mofo.com) | [LinkedIn](#) | [Twitter](#)

**John Bogler**



Chief Financial Officer



3 MacArthur Place  
Santa Ana, CA 92707  
Office: 949-236-5400  
Cell: 949-554-9043  
Fax: 978-367-8502  
[John.Bogler@bancofcal.com](mailto:John.Bogler@bancofcal.com)

CONFIDENTIALITY NOTICE: This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify us by reply e-mail at [john.bogler@bancofcal.com](mailto:john.bogler@bancofcal.com) or by telephone at 949-236-5400, and destroy the original transmission and its attachments without reading them or saving them to disk. Thank you.

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 355 South Grand Avenue, Suite 100, Los Angeles, CA 90071-1560.

On **October 25, 2018**, I served the following document described as:

**DEFENDANT STEVEN A. SUGARMAN'S FIFTH REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT BANC OF CALIFORNIA**

by serving a true copy of the above-described document in the following manner:

**BY EMAIL**

The above-described document was transmitted via electronic mail to the following parties on October 25, 2018:

Email: MMcDonald@mofo.com  
RHubbell@mofo.com  
ALandis@mofo.com  
JLevine@mofo.com  
SLenkey@mofo.com  
THinson@mofo.com  
WHerbert@mofo.com  
ASenseman@mofo.com  
EOliver@rgrdlaw.com  
HectorM@rgrdlaw.com  
LLargent@rgrdlaw.com  
MAlpert@rgrdlaw.com

I declare that I am employed in the office of a member of the Bar of California, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 25, 2018**, at Los Angeles, California.

/s/ John M. Eastly

John M. Eastly

## **EXHIBIT 8**

Andrew R. Gray  
Direct Dial: 714.755.8017  
andrew.gray@lw.com

650 Town Center Drive, 20th Floor  
Costa Mesa, California 92626-1925  
Tel: +1.714.540.1235 Fax: +1.714.755.8290  
www.lw.com

**LATHAM & WATKINS** LLP

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	Rome
Frankfurt	San Diego
Hamburg	San Francisco
Hong Kong	Seoul
Houston	Shanghai
London	Silicon Valley
Los Angeles	Singapore
Madrid	Tokyo
Milan	Washington, D.C.

November 5, 2018

Mark R. McDonald  
Robert B. Hubbell  
Morrison & Foerster LLP  
707 Wilshire Boulevard  
Los Angeles, CA 90017-3543  
mmcdonald@mofo.com  
rhubbell@mofo.com

Re: *In re Banc of California Securities Litigation*, Case No. 8:17-cv-00118-AG-DFM

Dear Mark and Robert,

I write regarding Steven A. Sugarman's Requests for Production of Documents to Banc of California, Inc. ("Banc") and the May 30, 2018 Stipulation and Order Regarding Banc of California, Inc.'s Responses to Steven Sugarman's First Request for Production of Documents (the "Stipulation and Order"). ECF No. 233.

As you know, Paragraph 7 of the Stipulation and Order requires Banc to produce documents "in response to reasonable individual requests for specifically identified documents." On August 24, 2018, Mr. Sugarman requested via electronic mail that Banc produce nine specific documents. Mr. Sugarman asked for an additional four documents on August 29. We received Banc's production dated October 19, nearly two months after Mr. Sugarman's requests. Although your letter states that Banc is not responding to those portions of Mr. Sugarman's requests which seek "all other documents around [the specifically identified] date on the same subject matter," please note that Banc has a continuing obligation to produce all relevant materials it locates or is aware of that are responsive to any of the requests for production Mr. Sugarman has thus far propounded.

Additionally, Banc has redacted various pages in its October 19 production. *See, e.g.*, BOC\_000462677-85; BOC\_000462878-86; BOC\_000462888-90; BOC\_000462916-25. Please provide a privilege log justifying these redactions by November 16, 2018.

November 5, 2018  
Page 2

**LATHAM & WATKINS** LLP

In accordance with the procedures set forth in Paragraph 7 of the Stipulation and Order, Mr. Sugarman now requests that Banc produce the following additional specific documents:

14. Emails between Steven Sugarman and Halle Benett from May 9 through May 12, 2016, with the subject line “no subject,” and all additional emails in this email string (*e.g.*, forwards or replies).
15. Memorandum from Winston & Strawn LLP to the Board of Directors of Banc of California, dated November 20, 2015 and titled “Internal Investigation re Jason Galanis,” (produced by Winston & Strawn at W&S\_BOC\_00006876), a version of the same document that appears to have been created on December 7, 2015 (produced by Winston & Strawn at W&S\_BOC\_00006940).
16. Memorandum from KPMG for the period ending 9/30/2016 and 12/31/2016 and titled “Banc of California—2016—October 2016 and January 2017 Instablog Allegations” (produced by KPMG at KPMG-BANC-SEC-000827).
17. Email from David Aronoff to Steven Sugarman on October 9, 2015 at around 12:58 am, with no apparent subject line (produced by Winston & Strawn at W&S\_BOC\_00018095), and all additional emails in this email string (*e.g.*, forwards or replies).
18. Document titled “BANC Board Call 12/22/15 – Internal Investigation re: Jason Galanis (produced by Winston & Strawn at W&S\_BOC\_00017771).
19. Document titled “PRIVILEGED INVESTIGATION BY COUNSEL REQUESTED BY DIRECTORS REGARDING JASON GALANIS,” dated January 25, 2016 (produced by Winston & Strawn at W&S\_BOC\_00006520).
20. Document titled “(Special) Telephonic Meeting of the Joint Compensation, Nominating and Corporate Governance Committee of the Board of Directors,” dated May 19, 2016.
21. Document titled “Banc of California Enterprise Anti-Money Laundering (AML) Financial Intelligence (FININT) Operations Standard Form\_SAR Narrative Initial 2-2016\_Approved for Use,” referencing an account “in the name of MKA Real Estate Opportunity Fund LTD, Brian Walter Wagoner, and George Clifford Baker (produced by Winston & Strawn at W&S\_BOC\_00022574).
22. Untitled document that begins “Banc of California, NA (“Bank”) initiated an investigation of the banking activity of Bank customers Hugh D. Dunkerley (Dunkerley), COR Fund Advisors, LLC (CORFA) and Thorsdale Fiduciary and Guaranty Company, LTD (Thorsdale)....,” (produced by Winston & Strawn at W&S\_BOC\_00006520).

US-DOCS\103706566.5



November 5, 2018  
Page 3

LATHAM & WATKINS LLP

23. Email from John Grosvenor to Matthew Guest and Steven Sugarman, on October 18, 2016 at around 1:53 pm, with the subject line "Re: Are you available for a call?," and all additional emails in this email string (*e.g.*, forwards or replies).
24. Email from Chad Brownstein to Steven Sugarman and John Grosvenor, on October 18, 2016 at around 12:15 pm, with the subject line "lets have a call" (produced by Wilmer Hale at WH-BANC-SEC-003697) and all additional emails in this email string (*e.g.*, forwards or replies).
25. Email from Chad Brownstein to David Aronoff, John Grosvenor, and Steven Sugarman, on October 18, 2016 at around 4:36 pm, with the subject line "RE: RE:" (produced from Winston & Strawn at W&S\_BOC\_00004064-66) and all additional emails in this email string (*e.g.*, forwards or replies).
26. Email from Chad Brownstein to Rachel Fisher, Jeff Karish, Jonah Schnel, Eric Holoman, Robert Szniewajs, Halle Benett, Cynthia Abercrombie, Steven Sugarman, John Grosvenor, and Angelee Harris, on October 18, 2016 at around 3:06 pm, with the subject line "RE: Special (Telephonic) Board Meeting Tonight" (produced by Wilmer Hale at WH-BANC-SEC-003576) and all additional emails in this email string (*e.g.*, forwards or replies).
27. Email from Chad Brownstein to John Grosvenor, Scott Fishwick, David Aronoff, Steven Sugarman, and Sallie Hofmeister, on October 18, 2016 at around 6:25 pm, with the subject line "RE: RE: RE: RE:" (produced by Winston & Strawn at W&S\_BOC\_00004042) and all additional emails in this email string (*e.g.*, forwards or replies).
28. Email from Steven Sugarman to Francisco Turner, Hugh Boyle, Terrin Enssle, Brian Kuelbs, Jim McKinney, and John Grosvenor, on October 18, 2016 at around 2:28 pm, with the subject line "Re: Contingent Funding Plan – Activation," and all additional emails in this email string (*e.g.*, forwards or replies).
29. Emails between Steven Sugarman to Tim Sedabres, Francisco Turner, Angelee Harris, Matt Guest, David Aronoff, Hugh Boyle, and John Grosvenor, on October 18, 2016 at around 2:59 pm, with the subject line "draft PR" (produced by Winston & Strawn at W&S\_BOC\_00004137-38 and W&S\_BOC\_00008426 and W&S\_BOC\_00002718) and all additional emails in this email string (*e.g.*, forwards or replies).
30. Transcript of Banc of California, Inc.'s FQ03 2016 Earnings Call, occurring on October 19, 2016, all versions of Mr. Grosvenor's statements for that call (including the final version he used during the call), and all emails to and from Mr. Grosvenor regarding his draft and final statement including any emails sent to himself or to a family member.

November 5, 2018  
Page 4

LATHAM & WATKINS LLP

31. Document titled "Banc of California, Inc. Presentation of Findings of the Special Committee of Independent Directors," dated February 2017 (produced by Wilmer Hale at WH-BANC-SEC-000021) and emails attaching such document or any version of such document.
32. Email from David Aronoff to Steven Sugarman, Tim Sedabres, Francisco Turner, John Grosvenor, and Matt Guest on October 18, 2016 at around 3:36 pm, with the subject line "no subject," and all additional emails in this email string (*e.g.*, forwards or replies).
33. Email from Steven Sugarman to Greg Garrabrants and David Aronoff on October 18, 2016 at around 2:22 pm, with the subject line "Re: If you," and all additional emails in this email string (*e.g.*, forwards or replies).
34. Email from Steven Sugarman to Hugh Boyle and Gary Kausmeyer, copying John Grosvenor, David Aronoff and Jeff Seabold on May 11, 2016 at around 10:55 am with the subject line "AC PRIV," (produced by Winston & Strawn at W&S\_BOC\_00004688-89), and all additional emails in this email string (*e.g.*, forwards or replies).
35. Emails between or among Gaylin Anderson, Steven Sugarman, Jeff Seabold, Hugh Boyle, Fran Turner, and Carlos Salas on October 18, 2016, with the subject line "Lanco Account \$26MM," and all additional emails in this email string (*e.g.*, forwards or replies).
36. Emails between Terrin Enssle, Hugh Boyle, Steven Sugarman, Fran Turner, Jeff Seabold and John Grosvenor, among others, on October 19, 2016 with the subject line "Contingency Funding Plan – Updated EOD 10/19/16," and all additional emails in this email string (*e.g.*, forwards or replies).
37. Emails between or among David Aronoff and John Grosvenor on October 19, 2016, with the subject line "Proposed Introductory Remarks" (produced by Winston & Strawn at W&S\_BOC\_00009528, W&S\_BOC\_00009523, and W&S\_BOC\_00003936), and all additional emails in this email string (*e.g.*, forwards or replies).
38. Email from David Aronoff to John Grosvenor on October 23, 2016, at around 8:32 am, with the subject line "AC Privilege" (produced by Winston & Strawn at W&S\_BOC\_00009109) and all additional emails in this email string (*e.g.*, forwards or replies).
39. Email from Halle Benett sent in late December 2016 in which he addresses the representations made in his December 15, 2016 email, which was previously produced by Banc at BOC\_000462316-319, and all additional emails in the string (*e.g.*, forwards or replies).
40. Email from John Grosvenor to Chad Brownstein, Jeff Karish, Jonah Schnel,

US-DOCS\103706566.5

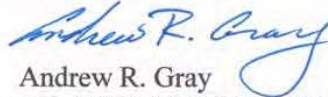
November 5, 2018  
Page 5

**LATHAM & WATKINS** LLP

Robert Sznewajs, Eric Holoman, Steven Sugarman, Cynthia Abercrombie, and Angelee Harris, on January 4, 2017, at around 2:06 pm, with the subject line "PRIVILEGED AND CONFIDENTIAL: Halle Benett." and all additional emails in this email string (*e.g.*, forwards or replies), including, but not limited to the reply emails from Steven Sugarman on January 4, 2017 at around 7:15pm, the reply email from Angelee Harris on January 5, 2017 at around 11:03 am, the reply email from John Grosvenor on January 5, 2017 at around 11:09 am, and the reply email from Angelee Harris on January 6, 2017 at around 12:52 pm.

Please produce these documents, and the documents responsive to our prior requests numbered 8 and 13 by November 12.

Sincerely,



Andrew R. Gray  
of LATHAM & WATKINS LLP



## **EXHIBIT 9**

LATHAM & WATKINS LLP  
Manny A. Abascal (Bar No. 171301)  
*manny.abascal@lw.com*  
355 South Grand Avenue, Suite 100  
Los Angeles, CA 90071-1560  
Tel: (213) 485-1234  
Fax: (213) 891-8763

LATHAM & WATKINS LLP  
Michele D. Johnson (Bar No. 198298)  
*michele.johnson@lw.com*  
Andrew R. Gray (Bar No. 254594)  
*andrew.gray@lw.com*  
650 Town Center Drive, 20th Floor  
Costa Mesa, CA 92626-1925  
Tel: (714) 540-1235  
Fax: (714) 755-8290

Attorneys for Defendants  
Steven A. Sugarman

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

IN RE BANC OF CALIFORNIA  
SECURITIES LITIGATION

CASE NO. SACV 17-00118 AG (DFMx)  
consolidated with  
SACV 17-00138 AG (DFMx)

**DEFENDANT STEVEN A.  
SUGARMAN'S FIRST REQUEST  
FOR PRODUCTION OF  
DOCUMENTS TO DEFENDANT  
BANC OF CALIFORNIA**

This Document Relates to:  
  
ALL ACTIONS

Judge: Hon. Andrew J. Guilford  
Courtroom: 10D

Trial Date: October 22, 2019



1 PROPOUNDING PARTY: Defendant Steven A. Sugarman  
2 RESPONDING PARTY: Defendant Banc of California  
3 SET NUMBER: One

4 Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure,  
5 Defendant Steven A. Sugarman hereby requests that, within thirty (30) days of  
6 service, Defendant Banc of California (“Banc”) produce the documents,  
7 electronically stored information, and tangible things specified herein at the offices  
8 of Latham & Watkins LLP, c/o Michele D. Johnson, Esq., 650 Town Center Drive,  
9 20<sup>th</sup> Floor, Costa Mesa, California 92626-1925. Such production should be made  
10 in accordance with the “DEFINITIONS” and “INSTRUCTIONS” set forth below.

11 These document requests incorporate by reference all definitions and rules  
12 of construction set forth in Rule 34 of the Federal Rules of Civil Procedure and  
13 supplement them with the following definitions and instructions, which apply to  
14 each Request set forth herein.

15 **DEFINITIONS**

16 1. “Affiliate” shall mean a person that directly, or indirectly through one  
17 or more intermediaries, controls or is controlled by, or is under common control  
18 with, the person specified.

19 2. “And” and “or” shall be construed either disjunctively or  
20 conjunctively, as necessary by the context, to bring within the scope of the  
21 definition, instruction, or request all responses that might otherwise be construed to  
22 be outside of its scope by any other construction.

23 3. The terms “all,” “any,” and “each” shall each be construed as  
24 encompassing any and all.

25 4. “Audit Committee” shall mean the Audit Committee of the BOARD.

26 5. As used herein, “Aurelius” shall mean the author listed on the byline  
27 of the blog post entitled “BANC: Extensive Ties to Notorious Fraudster Jason  
28 Galanis Make Shares Un-Investible,” posted on the website *SeekingAlpha.com* on

1 October 18, 2016.

2 6. “Banc,” “you,” or “your” shall collectively refer to Defendant Banc of  
3 California, Inc., Banc of California, N.A., and, without limitation, its predecessors,  
4 successors, parents, subsidiaries, affiliates, divisions, directors, officers, principals,  
5 trustees, agents, representatives, consultants, attorneys, or any other person acting  
6 on their behalf. As used herein, “you” and “your” shall be construed either  
7 disjunctively or conjunctively, to include Banc of California, Inc. individually as  
8 well as collectively with Banc of California, N.A. or any other affiliate, and as  
9 necessary by the context, to bring within the scope of the definition, instruction, or  
10 request all responses that might otherwise be construed to be outside of its scope  
11 by any other construction.

12 7. “Board” or “Boards” shall mean collectively the Board of Directors of  
13 Banc of California, Inc. and Banc of California, N.A.

14 8. As used herein, “Blog” refers to the blog post entitled “BANC:  
15 Extensive Ties to Notorious Fraudster Jason Galanis Make Shares Un-Investible,”  
16 posted on the website *SeekingAlpha.com* by “Aurelius” on October 18, 2016.

17 9. As used herein, “Communication” or “communications” shall mean  
18 the transmittal of information (in the form of facts, ideas, inquiries, or otherwise)  
19 in any form, including without limitation e-mail, text message, and letters  
20 (including attachments).

21 10. As used herein, “CONCERNING” means relating to, referring to,  
22 describing, evidencing, or constituting.

23 11. As used herein, “Document” or “documents” is defined to mean all  
24 documents, electronically stored information, and tangible things in the broadest  
25 sense under Rule 34 of the Federal Rules of Civil Procedure, and shall mean  
26 anything that can be read, viewed, heard, or otherwise understood. Subject to and  
27 in accordance with the Instructions herein, “document” shall not be limited in any  
28 way with respect to medium, embodiment, or process of creation, generation, or

1 reproduction; “document” shall include, without limitation, all preliminary,  
2 intermediate, and final versions thereof, as well as any notations, comments, and  
3 marginalia (handwritten or otherwise) appearing thereon or therein; “document”  
4 shall include originals (or high quality duplicates), all non-identical copies or  
5 drafts, and all attachments, exhibits, or similar items. Any document bearing on  
6 any sheet or side thereof, any marks, including, without limitation, initials,  
7 notations, comments, or marginalia of any character which are not part of the  
8 original text or reproduction thereof, shall be considered a separate document.  
9 Document or documents shall include without limitation any and all  
10 Communications.

11 12. “Dominion” shall mean the Dominion Advisory Group and, without  
12 limitation, its predecessors, successors, parents, subsidiaries, affiliates, divisions,  
13 directors, officers, principals, trustees, agents, representatives, consultants,  
14 attorneys, or any other person acting on their behalf.

15 13. As used herein, “Electronic data” refers to any original and any non-  
16 identical copies (whether non-identical because of notes made on copies or  
17 attached comments, annotations, marks, transmission notations, or highlighting of  
18 any kind), mechanical, facsimile, electronic, magnetic, digital, or other programs  
19 (whether private, commercial, or work-in-progress), programming notes or  
20 instructions, activity listings of electronic mail or “e-mail” receipts or transmittals,  
21 output resulting from the use of any software program, including word processing  
22 documents, spreadsheets, database files, charts, graphs, and outlines, electronic  
23 mail, operating systems, source code of all types, programming languages, linkers  
24 and compilers, peripheral drives, PDF files, PRF files, batch files, ASCII files,  
25 crosswalks, code keys, pull down tables, logs, file layouts, or any miscellaneous  
26 files or file fragments, regardless of the media on which they reside and regardless  
27 of whether said electronic data consists of an active file, backup file, deleted file,  
28 or file fragment. “Electronic data” also includes, without limitation, any items

1 stored on computer memory or memories, hard drives, zip drives, CD-ROM discs  
2 or in any other vehicle for electronic or digital data storage or transmittal, files,  
3 folder tabs, or containers and labels appended to or associated with any physical  
4 storage device associated with each original and each copy.

5 14. "Evidence, refer, reflect, or relate to" and similar terms, used together  
6 or alone, shall mean all information, facts, or documents that directly, indirectly, or  
7 in any other way support, concern, negate, bear upon, touch upon, incorporate,  
8 affect, include, pertain to, or are otherwise connected with the subject matter about  
9 which the request is made.

10 15. "FRB" shall mean the Federal Reserve Board, including all present or  
11 former officers, directors, employees, agents, attorneys, advisors, accountants,  
12 consultants, and all other persons acting or purporting to act on its behalf.

13 16. "Galanis" shall mean Jason W. Galanis and any of his agents,  
14 representatives, consultants, attorneys, or any other person acting on his behalf.

15 17. "Alleged Galanis Entity" shall mean Gerova Financial Group, Ltd.,  
16 Hughes Capital Management, LLC, Atlantic Asset Management LLC, Burnham  
17 Securities, Inc., Burnham Financial Group, Burnham Asset Management  
18 Corporation, BAM Holdings, LLC, Thorsdale Fiduciary and Guaranty Company  
19 Ltd., Valor Group Ltd., Valorlife, Wealth Assurance Holdings Ltd., Wealth-  
20 Assurance AG, Wealth Assurance Private Client Corporation, Valorlife  
21 Lebensversicherungs AG, Holmby Capital Group, IP Global Investors Ltd.,  
22 Prospect Global Resources, Inc., Private Equity Management LLC, Malaga Asset  
23 Management, LLC, Stanwich Absolute Return, Ltd., Bel Air LLC, Emerging  
24 Markets Global Hedge Ltd., Little Giggles LLC, Galanis Family Trust, Rosemont  
25 Seneca Bohai LLC, BOE Capital LLC, BFG Socially Responsible Investing  
26 Limited, GMT Duncan LLC, COR Fund Advisors, and COR International,  
27 including, without limitation, any of their predecessors, successors, parents,  
28 subsidiaries, affiliates, divisions, directors, officers, principals, trustees, agents,

1 representatives, consultants, attorneys, or any other person acting on their behalf.  
2 Nothing in this definition shall admit, concede, or suggest that Jason Galanis had  
3 any control over such entities.

4 18. "Governance Committee" shall mean the Banc's Joint Compensation,  
5 Nominating and Corporate Governance Committee.

6 19. "Investigations" shall mean the WilmerHale Investigation and the  
7 Winston & Strawn Investigation, collectively.

8 20. "KPMG" shall mean KPMG US LLP and, without limitation, its  
9 predecessors, successors, parents, subsidiaries, affiliates, divisions, directors,  
10 officers, principals, trustees, agents, representatives, consultants, attorneys, or any  
11 other person acting on their behalf.

12 21. "OCC" shall mean the Office of the Comptroller of the Currency,  
13 including all present or former officers, directors, employees, agents, attorneys,  
14 advisors, accountants, consultants, and all other persons acting or purporting to act  
15 on its behalf.

16 22. "PCAOB" shall mean the Public Company Accounting Oversight  
17 Board, including all present or former officers, directors, employees, agents,  
18 attorneys, advisors, accountants, consultants, and all other persons acting or  
19 purporting to act on its behalf.

20 23. "Person" shall mean any natural person or any legal entity, including,  
21 without limitation, any business or governmental entity or association.

22 24. "Purchase or sell" shall mean purchase, sell, trade, convert, otherwise  
23 acquire, or otherwise dispose, whether for your own account or benefit, or for the  
24 account or benefit of any other person.

25 25. "SEC" shall mean the United States Securities and Exchange  
26 Commission, including all present or former officers, directors, employees, agents,  
27 attorneys, advisors, accountants, consultants, and all other persons acting or  
28 purporting to act on its behalf.



1           26. “Securities” shall have the meaning set forth in the Securities  
2 Exchange Act of 1934, 15 U.S.C. §§ 78a, *et seq.*

3           27. “SOX” shall mean the Sarbanes-Oxley Act of 2002 (Pub.L. 107-204,  
4 116 Stat. 745, enacted July 30, 2002), and any regulations promulgated thereunder.

5           28. “Special Committee” shall mean the committee of Banc directors  
6 formed after the October 18, 2016 Blog post which retained WilmerHale.

7           29. “Sugarman” shall mean Steven A. Sugarman and any of his agents,  
8 representatives, consultants, attorneys, or any other person acting on his behalf.

9           30. “This action” shall mean the present lawsuit, *In re Banc of California*  
10 *Securities Litigation*, Case No. SACV 17-00118 AG (DFMx), pending in the  
11 United States District Court for the Central District of California.

12           31. “Transactions” shall mean any purchases, acquisitions, sales,  
13 dispositions, tenders, donations, receipt, gifts, transfers, puts, call, short sales, or  
14 any other means by which you, whether for your own account or benefit or for the  
15 account or benefit of any other person, acquired or disposed of any interest in  
16 securities.

17           32. “WilmerHale” shall mean the law firm WilmerHale, and, without  
18 limitation, its predecessors, successors, parents, subsidiaries, affiliates, divisions,  
19 directors, officers, principals, trustees, agents, representatives, consultants,  
20 attorneys, or any other person acting on their behalf.

21           33. “WilmerHale Investigation” shall mean the Banc’s investigation,  
22 initiated by the Special Committee, led by WilmerHale initiated on or around  
23 October 30, 2016.

24           34. “Winston & Strawn Investigation” shall mean the Banc’s  
25 investigation led by Winston & Strawn initiated in October 2015.

26           35. “Workplace Misconduct” shall include any and all forms of director,  
27 officer, or employee misconduct, including fraud; conflicts of interest; breaches of  
28 duties; failures to disclose; accounting errors; misstatements; or fraud; improper or

1 offshore financial transactions; alcohol or drug use; ownership or interests in  
2 organizations that sell drugs or other illicit merchandise; insider trading; sexual  
3 harassment or related misconduct; or other violations of BANC policies and  
4 procedures.

5 36. The use of the singular form of any word shall include the plural form  
6 of the same and vice versa.

7 **INSTRUCTIONS**

8 1. The requests herein cover all documents within your possession,  
9 custody, or control, regardless of whether they are currently in your possession,  
10 including, but not limited to, all documents within the possession, custody, or  
11 control of persons acting on your behalf or at your instruction. For any requested  
12 document no longer in your possession, custody, or control, state what disposition  
13 was made of the document and the date of such disposition and identify all persons  
14 having knowledge of the document's contents. For any requested document that  
15 has been destroyed, state what document has been destroyed, when the document  
16 was destroyed, why it was destroyed, and all persons who participated in or were  
17 involved in the decision to destroy.

18 2. All documents shall be produced: (a) as they are kept in the ordinary  
19 course of business, complete with the original file folders, binders, containers, or  
20 other devices in which they are stored (or legible copies of the labels or other  
21 identifying information from those folders, binders, containers, or devices), or  
22 (b) organized according to the request to which they respond. If you elect the latter  
23 mode of production, each document from a particular file, binder, container, or  
24 other device shall be accompanied by a legible copy of the label or other  
25 identifying information from that, file, binder, container, or device or some other  
26 reliable indicator of the location, file, binder, container, or device from which it  
27 was taken.

28 3. All documents that are in paper form or that constitute other physical

1 objects from which information may be visually read or viewed, as well as audio or  
2 video tapes and similar recordings, shall be produced in their original form or in  
3 copies that are exact duplicates of the originals.

4 4. All electronic documents or other Electronically Stored Information  
5 (“ESI”) shall be produced as single-page, Group IV, 300 DPI TIFF images with the  
6 exception of audio, video, slideshow presentation-type files including, but not  
7 limited to, Microsoft PowerPoint, and spreadsheet-type files including, but not  
8 limited to Microsoft Excel, which should be produced in native format. All ESI  
9 should be produced with a delimited, database load file that includes metadata—  
10 the parties shall meet and confer to determine the appropriate metadata fields to  
11 include. An .opt image cross-reference file should also be provided for all TIFF  
12 images. TIFF images should show any and all text and images which would be  
13 visible to the reader using the native software that created the document. For  
14 example, TIFF images of e-mail messages should include the BCC line. If a  
15 document is produced in native format, a single-page Bates-stamped TIFF image  
16 slip-sheet containing text stating the document has been produced in native format  
17 should also be provided. Each native file should be named according to the Bates  
18 number it has been assigned, and should be linked directly to its corresponding  
19 record in the load file using the NATIVELINK field. Removal of duplicate  
20 documents should only be done on exact duplicate documents (based on MD5 or  
21 SHA-1 hash values, at the family level). Attachments should not be eliminated as  
22 duplicates for purposes of production, unless the parent e-mail and all attachments  
23 are also duplicates. An email that includes content in the BCC or other blind copy  
24 field should not be treated as a duplicate of an email that does not include content  
25 in those fields, even if all remaining content in the e-mail is identical. Removal of  
26 near-duplicate documents and email thread suppression is not acceptable. The  
27 documents should be produced on CD-ROM, DVD, external hard drive (with  
28 standard PC compatible interface), File Transfer Protocol (for document

1 production under 10GB), or such other readily accessible computer or electronic  
2 media as the parties may hereafter agree upon.

3 5. If you object to any portion of any request herein, identify the portion  
4 of a request to which you object, state the reason for your objection with  
5 specificity, and answer the remainder of the request. If any request calls for a  
6 document or communication for which you claim any privilege or work product  
7 protection for all or any portion of such document or communication, provide a  
8 privilege log containing the information required by Rule 26(b)(5)(A) of the  
9 Federal Rules of Civil Procedure.

10 6. The requests herein are continuing so that any additional documents  
11 responsive to the requests herein that you acquire or discover, up to and including  
12 the time of trial, shall be furnished through prompt supplemental responses. Fed.  
13 R. Civ. P. 26(e). This paragraph shall not be construed to alter your obligations to  
14 comply with all other instructions herein.

15 7. Unless otherwise specified, the requests cover the time period  
16 September 2015 to the present.

17 **REQUESTS FOR PRODUCTION**

18 **REQUEST FOR PRODUCTION NO. 1:**

19 All DOCUMENTS which refer, reflect, or relate to Mr. Sugarman's  
20 biography as published in the Banc's April 15, 2016 Proxy Statement, including  
21 without limitation all DOCUMENTS CONCERNING the drafting of the Proxy  
22 Statement.

23 **REQUEST FOR PRODUCTION NO. 2:**

24 All DOCUMENTS which refer, reflect, or relate to materials that were used  
25 by YOU or anyone else to prepare the Banc's April 15, 2016 Proxy Statement.

26 **REQUEST FOR PRODUCTION NO. 3:**

27 All DOCUMENTS which refer, reflect or relate to the WINSTON &  
28 STRAWN INVESTIGATION.

1 REQUEST FOR PRODUCTION NO. 4:

2 All DOCUMENTS which refer, reflect or relate to WILMERHALE or the  
3 WILMERHALE INVESTIGATION.

4 REQUEST FOR PRODUCTION NO. 5:

5 All DOCUMENTS provided, sent, or made available to the SEC or any  
6 other government agency in connection with any of the INVESTIGATIONS.

7 REQUEST FOR PRODUCTION NO. 6:

8 All DOCUMENTS which refer, reflect or relate to statements made by John  
9 Grosvenor on YOUR October 19, 2016 Q3 investor call relating to any of the  
10 INVESTIGATIONS.

11 REQUEST FOR PRODUCTION NO. 7:

12 All DOCUMENTS which refer, reflect or relate to statements, interviews,  
13 testimony, or depositions given by John Grosvenor CONCERNING the  
14 INVESTIGATIONS, the BLOG, AURELIUS or MR. SUGARMAN's  
15 employment.

16 REQUEST FOR PRODUCTION NO. 8:

17 All DOCUMENTS which refer, reflect or relate to statements, interviews, or  
18 depositions given by any member of the SPECIAL COMMITTEE in connection  
19 with any of the INVESTIGATIONS, the BLOG, AURELIUS, or MR.  
20 SUGARMAN'S employment.

21 REQUEST FOR PRODUCTION NO. 9:

22 All DOCUMENTS which refer, reflect or relate to the SPECIAL  
23 COMMITTEE.

24 REQUEST FOR PRODUCTION NO. 10:

25 All DOCUMENTS which refer, reflect or relate to meetings of YOUR  
26 BOARDS CONCERNING or at which any of the following matters were  
27 discussed: the INVESTIGATIONS, WILMERHALE, WINSTON & STRAWN,  
28 SPECIAL COMMITTEE, MR. SUGARMAN's EMPLOYMENT, BLOG,



1 AURELIUS, GALANIS, any GALANIS ENTITY, any allegations of  
2 WORKPLACE MISCONDUCT by any member of management or any director,  
3 or internal controls.

4 REQUEST FOR PRODUCTION NO. 11:

5 All DOCUMENTS which refer, reflect or relate to the GOVERNANCE  
6 COMMITTEE of YOUR BOARD, including without limitation concerning any  
7 GOVERNANCE COMMITTEE meetings from October 2015 to February 2016.

8 REQUEST FOR PRODUCTION NO. 12:

9 All DOCUMENTS which refer, reflect or relate to whether, when and for  
10 how long members of the GOVERNANCE COMMITTEE accessed  
11 GOVERNANCE COMMITTEE meetings materials, including without limitation  
12 Onehub.com and BoardVantage access logs for online documents reflecting  
13 whether the materials were read, by whom, and if so for how long.

14 REQUEST FOR PRODUCTION NO. 13:

15 All DOCUMENTS which refer, reflect or relate to whether, when and for  
16 how long members of the SPECIAL COMMITTEE accessed SPECIAL  
17 COMMITTEE meetings materials, including without limitation Onehub.com and  
18 BoardVantage access logs access logs for online documents reflecting whether the  
19 materials were read, by whom, and if so for how long.

20 REQUEST FOR PRODUCTION NO. 14:

21 All DOCUMENTS which refer, reflect or relate to whether, when and for  
22 how long members of the BOARDS accessed BOARD meetings materials for the  
23 time period October 17, 2016 to January 30, 2017, including without limitation  
24 Onehub.com and BoardVantage access logs access logs for online documents  
25 reflecting whether the materials were read, by whom, and if so for how long.

1 REQUEST FOR PRODUCTION NO. 15:

2 All DOCUMENTS which refer, reflect or relate to self-assessments,  
3 surveys, or reviews of the performance of YOUR BOARDs, the SPECIAL  
4 COMMITTEE, or the GOVERNANCE COMMITTEE.

5 REQUEST FOR PRODUCTION NO. 16:

6 All DOCUMENTS which refer, reflect or relate to compensation (including  
7 CAMELS and KPIs) for members of YOUR BOARDs, including disclosure to  
8 investors of such compensation and whether such disclosures accurately reflected  
9 changes to such compensation.

10 REQUEST FOR PRODUCTION NO. 17:

11 All DOCUMENTS which refer, reflect or relate to draft minutes, changes to  
12 minutes, and final minutes of meetings of the following: (a) YOUR BOARDs, (b)  
13 the SPECIAL COMMITTEE, or (c) the Audit Committees, for meetings that  
14 occurred during the time period October 1, 2016 to February, 2017.

15 REQUEST FOR PRODUCTION NO. 18:

16 All DOCUMENTS which refer, reflect or relate to draft minutes, changes to  
17 minutes, and final minutes of meetings of the GOVERNANCE COMMITTEE that  
18 occurred during the time period October 1, 2015 to February, 2017.

19 REQUEST FOR PRODUCTION NO. 19:

20 All DOCUMENTS which refer, reflect or relate to GALANIS.

21 REQUEST FOR PRODUCTION NO. 20:

22 All DOCUMENTS which refer, reflect or relate to any GALANIS ENTITY.

23 REQUEST FOR PRODUCTION NO. 21:

24 All DOCUMENTS which refer, reflect or relate to DOMINION, including  
25 COMMUNICATIONS with DOMINION and work performed by DOMINION

26 REQUEST FOR PRODUCTION NO. 22:

27 All DOCUMENTS which refer, reflect or relate to employee  
28 COMMUNICATIONS, including without limitation Town Hall videos, letters and

1 e-mails, CONCERNING the INVESTIGATIONS, the BLOG, AURELIUS, MR.  
2 SUGARMAN, securities disclosures, material weaknesses, internal controls, tone  
3 at the top, or the internal audit function.

4 REQUEST FOR PRODUCTION NO. 23:

5 All DOCUMENTS which refer, reflect or relate to any material weaknesses  
6 identified or disclosed.

7 REQUEST FOR PRODUCTION NO. 24:

8 All DOCUMENTS which refer, reflect or relate to YOUR bonus accruals  
9 for the calendar or fiscal year 2016.

10 REQUEST FOR PRODUCTION NO. 25:

11 All DOCUMENTS which refer, reflect or relate to YOUR accounting for  
12 Class B share valuation.

13 REQUEST FOR PRODUCTION NO. 26:

14 All DOCUMENTS which refer, reflect or relate to YOUR tax reporting to  
15 employees for bonuses and Class B shares.

16 REQUEST FOR PRODUCTION NO. 27:

17 All DOCUMENTS which refer, reflect or relate to YOUR review, collection  
18 of information, or analysis of related parties for the purpose of making any related  
19 party disclosures, including without limitation all DOCUMENTS CONCERNING  
20 Directors and Officers questionnaires for all members of the BOARDS.

21 REQUEST FOR PRODUCTION NO. 28:

22 All DOCUMENTS which refer, reflect or relate to any disclosures regarding  
23 any children of Director Robert Szniewajs.

24 REQUEST FOR PRODUCTION NO. 29:

25 All DOCUMENTS which refer, reflect or relate to any disclosures regarding  
26 Melody Capital Management, LLC, Melody Capital Partners, LP, Melody Capital  
27 Management, LLC, or any of their respective AFFILIATES.  
28

1 REQUEST FOR PRODUCTION NO. 30:

2 All DOCUMENTS which refer, reflect or relate to any of YOUR business  
3 relationships with, potential conflict of interest with, or disclosures concerning, the  
4 following firms or any AFFILIATES thereof: Opes Advisors Inc.; Flagstar  
5 Bancorp, Inc.; Richard Merkin; any entity owned, controlled or managed by Mr.  
6 Merkin; Keefe, Bruyette & Woods, Inc.; Digital Turbine; Stifel Financial Corp.;  
7 Impac Mortgage Corp.; or CashCall Mortgage.

8 REQUEST FOR PRODUCTION NO. 31:

9 All DOCUMENTS which refer, reflect or relate to any leave of absence or  
10 disciplinary action taken against any employee of KPMG.

11 REQUEST FOR PRODUCTION NO. 32:

12 All DOCUMENTS which refer, reflect or relate to any conflict of interest, or  
13 other violation of KPMG policies or procedures, by any employee of KPMG.

14 REQUEST FOR PRODUCTION NO. 33:

15 All DOCUMENTS which refer, reflect or relate to COMMUNICATIONS  
16 between KPMG and Carlos Salas.

17 REQUEST FOR PRODUCTION NO. 34:

18 All DOCUMENTS which refer, reflect or relate to COMMUNICATIONS  
19 with KPMG relating to the INVESTIGATIONS, GALANIS, MR. SUGARMAN,  
20 internal controls, disclosures, or any WORKPLACE MISCONDUCT for the time  
21 period October 17, 2016 to the present.

22 REQUEST FOR PRODUCTION NO. 35:

23 All DOCUMENTS which refer, reflect or relate to any deficiencies or  
24 failures found during any PCAOB audit of YOUR auditors.

25 REQUEST FOR PRODUCTION NO. 36:

26 All DOCUMENTS which refer, reflect or relate to any deficiencies or  
27 failures found during any Internal Audit review.  
28

1 REQUEST FOR PRODUCTION NO. 37:

2 For the time period January 1, 2015 to the present, all DOCUMENTS which  
3 refer, reflect, or relate to instances, allegations, investigations, or findings of  
4 WORKPLACE MISCONDUCT, whistleblower complaints, threatened or actual  
5 litigation, settlement demands, SOX deficiencies, or third party complaints, by or  
6 against any member of YOUR BOARD, senior management team (including Doug  
7 Bowers, Hugh Boyle, Francisco Turner), or legal department employees (including  
8 John Grosvenor, Angelee Harris, Marisa Merchant), including without limitation  
9 allegations, reports or investigations concerning: (a) Halle Benett's employment,  
10 (b) Jeffrey Karish's employment and alleged frauds, (c) conflicts of interest arising  
11 from Robert Szniewaj's children, (d) WORKPLACE MISCONDUCT by Francisco  
12 Turner, or (e) third party investigations commissioned or directed by Hugh Boyle.

13 REQUEST FOR PRODUCTION NO. 38:

14 All DOCUMENTS which refer, reflect or relate to any separation,  
15 resignation, release or other employment agreement with Francisco Turner,  
16 including without limitation any undisclosed or confidential side letters or other  
17 agreements or understandings regarding indemnity or advancement of legal fees.

18 REQUEST FOR PRODUCTION NO. 39:

19 All DOCUMENTS that refer, reflect or relate to Mr. Sugarman's  
20 employment and resignation for the time period October 1, 2016 to the present,  
21 including without limitation any COMMUNICATIONS with Mr. Holoman and  
22 Ms. Abercrombie on this topic.

23 REQUEST FOR PRODUCTION NO. 40:

24 All DOCUMENTS which refer, reflect, or relate to COMMUNICATIONS,  
25 solicitations, advertisements, or other efforts to recruit third parties to apply to be  
26 YOUR Chief Executive Officer.  
27  
28



1 REQUEST FOR PRODUCTION NO. 41:

2 All COMMUNICATIONS between any member of YOUR BOARDS and  
3 Heather Endreson, including any recordings thereof.

4 REQUEST FOR PRODUCTION NO. 42:

5 All DOCUMENTS which refer, reflect or relate to any investigation or  
6 report relating to Heather Endreson.

7 REQUEST FOR PRODUCTION NO. 43:

8 All COMMUNICATIONS between any member of YOUR BOARDS and  
9 Michael Gelormino.

10 REQUEST FOR PRODUCTION NO. 44:

11 All DOCUMENTS which refer, reflect or relate to any investigation or  
12 report relating to Michael Gelormino.

13 REQUEST FOR PRODUCTION NO. 45:

14 All notebooks and notes in YOUR possession authored by Michael  
15 Gelormino.

16 REQUEST FOR PRODUCTION NO. 46:

17 All COMMUNICATIONS which refer, reflect or relate to David Park and  
18 also refer, reflect or relate to any allegation, investigation or report relating to  
19 Workplace Misconduct.

20 REQUEST FOR PRODUCTION NO. 47:

21 All DOCUMENTS which refer, reflect or relate to YOUR public disclosures  
22 CONCERNING the BLOG, the INVESTIGATIONS, GALANIS, Mr. Sugarman,  
23 the SPECIAL COMMITTEE, control deficiencies, or the compositions of YOUR  
24 BOARDS (including those relating to Mr. Benett's service on and reelection to the  
25 BOARD).

26 REQUEST FOR PRODUCTION NO. 48:

27 All DOCUMENTS, including COMMUNICATIONS, with Abernathy  
28 Macgregor from October 2016 to the present.

1 REQUEST FOR PRODUCTION NO. 49:

2 All DOCUMENTS which refer, reflect or relate to Vectis Strategies from  
3 January 1, 2017 to present.

4 REQUEST FOR PRODUCTION NO. 50:

5 All DOCUMENTS which refer, reflect or relate to Eric Holoman's service  
6 as a member of the or any subcommittee thereof, including without limitation  
7 CONCERNING his decision to resign from any such positions.

8 REQUEST FOR PRODUCTION NO. 51:

9 All DOCUMENTS which refer, reflect or relate to Cynthia Abercrombie's  
10 service as a member of YOUR BOARD or any subcommittee thereof, including  
11 without limitation CONCERNING her decision to resign from any such positions.

12 REQUEST FOR PRODUCTION NO. 52:

13 All DOCUMENTS which refer, reflect or relate to any consideration by  
14 YOU or YOUR BOARDS regarding the making or filing of any complaint,  
15 allegation or grievance relating to PL Capital, LLC.

16 REQUEST FOR PRODUCTION NO. 53:

17 All DOCUMENTS which refer, reflect or relate to any suspected or actual  
18 suspicious activities by PL Capital, LLC, including without limitation relationships  
19 with offshore individuals and entities, sources of capital, and relationships to  
20 individuals or entities accused, suspected, or convicted of fraud.

21 REQUEST FOR PRODUCTION NO. 54:

22 All COMMUNICATIONS between any member of YOUR BOARD, on the  
23 one hand, and any employee, agent or representative of PL Capital, LLC, on the  
24 other hand.

25 REQUEST FOR PRODUCTION NO. 55:

26 All COMMUNICATIONS between any member of YOUR BOARD, on the  
27 one hand, and any employee, agent or representative of Patriot Capital, on the  
28 other hand.

1 REQUEST FOR PRODUCTION NO. 56:

2 All COMMUNICATIONS between any member of YOUR BOARD, on the  
3 one hand, and any employee, agent or representative of Basswood Capital  
4 Management LLC, on the other hand.

5 REQUEST FOR PRODUCTION NO. 57:

6 All COMMUNICATIONS between any member of YOUR BOARD, on the  
7 one hand, and any employee, agent or representative of Wellington Management,  
8 on the other hand.

9 REQUEST FOR PRODUCTION NO. 58:

10 All COMMUNICATIONS between any member of YOUR BOARD, on the  
11 one hand, and any employee, agent or representative of Endicott Management  
12 Company, on the other hand.

13 REQUEST FOR PRODUCTION NO. 59:

14 All DOCUMENTS which refer, reflect or relate to any relationship,  
15 association or affiliation between Jeffrey Karish and any of the following  
16 individuals or entities or affiliates thereof: Mark Burnett, Terry Semel, Greg  
17 Garrabrants, Digital Turbine (APPS) or any other person or entity associated with  
18 the BLOG, AURELIUS, or WILMERHALE.

19 REQUEST FOR PRODUCTION NO. 60:

20 All DOCUMENTS which refer, reflect or relate to any disclosures or  
21 potential disclosures relating to NCM Holdings, LLC or any AFFILIATE of NCM  
22 Holdings, LLC.

23 REQUEST FOR PRODUCTION NO. 61:

24 All DOCUMENTS which refer, reflect or relate to any disclosures or  
25 potential disclosures relating to NCM Fund Management or any AFFILIATE of  
26 NCM Fund Management.  
27  
28

1 REQUEST FOR PRODUCTION NO. 62:

2 All DOCUMENTS which refer, reflect or relate to any allegations of  
3 misconduct by, or disclosures or potential disclosures relating to, Michael Santulli  
4 or any AFFILIATE of Michael Santulli.

5 REQUEST FOR PRODUCTION NO. 63:

6 All DOCUMENTS which refer, reflect or relate to Reed Dickens, including  
7 without limitation CONCERNING the GOVERNANCE COMMITTEE, the  
8 AUDIT COMMITTEE, Bloomberg News, or KPMG, from October 1, 2015 to  
9 present.

10 REQUEST FOR PRODUCTION NO. 64:

11 All DOCUMENTS which refer, reflect, or relate to any investigation of the  
12 identity of AURELIUS.

13 REQUEST FOR PRODUCTION NO. 65:

14 All DOCUMENTS which refer, reflect, or relate to memoranda prepared by  
15 Michelman & Robinson CONCERNING YOUR BOARD, the  
16 INVESTIGATIONS, or MR. SUGARMAN.

17 REQUEST FOR PRODUCTION NO. 66:

18 All DOCUMENTS which refer, reflect, or relate to allegations in the  
19 *Seabold v. Banc of California, Inc.*, et al. Complaint, Case No. BC674694, filed in  
20 the Superior Court of the State of California, County of Los Angeles.

21 REQUEST FOR PRODUCTION NO. 67:

22 All DOCUMENTS which refer, reflect, or relate to allegations in the *Salas*  
23 *v. Banc of California, Inc.*, et al. Complaint, Case No. BC672208, filed in the  
24 Superior Court for the State of California, County of Los Angeles.

25 REQUEST FOR PRODUCTION NO. 68:

26 All DOCUMENTS which refer, reflect or relate to the employment,  
27 potential employment, retention as a consultant or potential retention as a  
28 consultant, and termination of Carlos Salas.

1 REQUEST FOR PRODUCTION NO. 69:

2 All DOCUMENTS which refer, reflect or relate to the employment,  
3 potential employment, retention as a consultant or potential retention as a  
4 consultant, and termination of Jeffrey Seabold.

5 FREQUEST FOR PRODUCTION NO. 70:

6 All DOCUMENTS which refer, reflect, or relate to the terminations of  
7 Raquel Gillette, Teddy Nichols, or Heather Endresen.

8 REQUEST FOR PRODUCTION NO. 71:

9 All DOCUMENTS which refer, reflect, or relate to any searches performed  
10 by the BOARDS or individual BOARD members of Sugarman's emails, hard  
11 drives, phones, phone records, or any other materials.

12 REQUEST FOR PRODUCTION NO. 72:

13 All COMMUNICATIONS between Michelman & Robinson and YOU,  
14 members of YOUR BOARDS, the SPECIAL COMMITTEE, WILMERHALE,  
15 and Wachtell, Lipton, Rosen, & Katz.

16 REQUEST FOR PRODUCTION NO. 73:

17 All notebooks and notes in YOUR possession authored by Hugh Boyle.

18 REQUEST FOR PRODUCTION NO. 74:

19 All notebooks and notes in YOUR possession authored by James McKinney.

20 REQUEST FOR PRODUCTION NO. 75:

21 All DOCUMENTS which refer, reflect or relate to audits, reports or work  
22 performed by YOUR Internal Audit function from October 1, 2016 to present.

23 REQUEST FOR PRODUCTION NO. 76:

24 All DOCUMENTS which refer, reflect or relate to COMMUNICATIONS  
25 with the OCC regarding the INVESTIGATIONS, MR. SUGARMAN, the  
26 GOVERNANCE COMMITTEE, WORKPLACE MISCONDUCT, the SPECIAL  
27 COMMITTEE, employee departures, hirings, accounting, corporate governance,  
28



1 tone at the top, financial statements, internal audit, disclosure, from October 1,  
2 2016 to present.

3 REQUEST FOR PRODUCTION NO. 77:

4 All DOCUMENTS which refer, reflect or relate to COMMUNICATIONS  
5 with the FRB regarding the INVESTIGATIONS, MR. SUGARMAN, the  
6 GOVERNANCE COMMITTEE, the Audit Committee of YOUR BOARDs,  
7 WORKPLACE MISCONDUCT, the SPECIAL COMMITTEE, employee  
8 departures, hirings, accounting, corporate governance, tone at the top, financial  
9 statements, internal audit, disclosure, from October 1, 2016 to present. Included  
10 without limitation in this request are any DOCUMENTS concerning concerns by  
11 the FRB that non-employee BOARD members (including Mr. Szewajs) were not  
12 reading meeting materials or paying sufficient attention to Internal Audit matters.

13 REQUEST FOR PRODUCTION NO. 78:

14 All DOCUMENTS which refer, reflect or relate to COMMUNICATIONS  
15 with Protiviti.

16 REQUEST FOR PRODUCTION NO. 79:

17 All DOCUMENTS which refer, reflect or relate to COMMUNICATIONS  
18 with PricewaterhouseCoopers.

19 REQUEST FOR PRODUCTION NO. 80:

20 All DOCUMENTS which refer, reflect or relate to COMMUNICATIONS  
21 with KPMG regarding the INVESTIGATIONS, MR. SUGARMAN,  
22 WORKPLACE MISCONDUCT, the PCAOB, and disclosures.

23 REQUEST FOR PRODUCTION NO. 81:

24 All DOCUMENTS which refer, reflect or relate to any disclosures regarding  
25 Matthew Begley or any AFFILIATE of Matthew Begley.

26 REQUEST FOR PRODUCTION NO. 82:

27 All DOCUMENTS which refer, reflect or relate to any disclosures regarding  
28 Michael Santulli or any AFFILIATE of Michael Santulli.

1 REQUEST FOR PRODUCTION NO. 83:

2 All DOCUMENTS which refer, reflect or relate to any disclosures regarding  
3 ICA Risk Management Consultants or any AFFILIATE of ICA Risk Management  
4 Consultants.

5 REQUEST FOR PRODUCTION NO. 84:

6 All DOCUMENTS which refer, reflect or relate to any agreements with  
7 Michael Urtel, including signature on any Non-Disclosure Agreement.

8  
9 Dated: October 31, 2017

LATHAM & WATKINS LLP

Manuel A. Abascal  
Michele D. Johnson  
Andrew R. Gray

12 By: /s/ Manuel A. Abascal

13 Manuel A. Abascal

14 *Attorneys for Defendant, Steven A.*  
15 *Sugarman*

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of 18 years and not a party to this action. My business address is Latham & Watkins LLP, 650 Town Center Drive, 20th Floor, Costa Mesa, CA 92626-1925.

On **October 31, 2017**, I served the following document described as:

**DEFENDANT STEVEN A. SUGARMAN'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT BANC OF CALIFORNIA**

by serving a true copy of the above-described document in the following manner:

**BY EMAIL AND FEDERAL EXPRESS**

The above-described document was sent via FedEx to the following parties on October 31, 2017:

Laurie L. Largent (llargent@rgrdlaw.com)  
Matthew I. Alpert (malpert@rgrdlaw.com)  
ROBBINS GELLER RUDMAN & DOWD LLP  
655 West Broadway, Suite 1900  
San Diego, CA 92101  
Tel: 619.231.7423 / Fax: 619.231.1058

Mark R. McDonald (mmcdonald@mofo.com)  
Robert B. Hubbell (rhubbell@mofo.com)  
Matthew J. Cave (mcave@mofo.com)  
Joseph R. Rosner (jrosner@mofo.com)  
MORRISON & FOERSTER LLP  
707 Wilshire Blvd., Suite 6000  
Los Angeles, California 90017-3543  
Telephone: 213.892.5200/Facsimile: 213.892.5454

I declare that I am employed in the office of a member of the Bar of California, or permitted to practice before, this Court at whose direction the service was made and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 31, 2017**, at Costa Mesa, California.

  
Everett Bulthuis